fiscal year 2009 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2009, and for other purposes, had come to no resolution thereon.

## PERMISSION TO REDUCE TIME FOR ELECTRONIC VOTING DURING FURTHER CONSIDERATION OF H.R. 5658

Mrs. TAUSCHER. Mr. Speaker, I ask unanimous consent that, during further consideration of H.R. 5658 pursuant to House Resolution 1218, the Chair may reduce to 2 minutes the minimum time for electronic voting under clause 6 of rule XVIII and clauses 8 and 9 of rule XX.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

## DUNCAN HUNTER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009

The SPEAKER pro tempore. Pursuant to House Resolution 1218 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. 5658.

□ 1531

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. 5658) to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2009, and for other purposes, with Mr. ROSS (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 23 printed in House Report 110–666 by the gentleman from Massachusetts (Mr. TIERNEY) had been postponed.

AMENDMENT NO. 33 OFFERED BY MR. PEARCE

The Acting CHAIRMAN. It is now in order to consider amendment No. 33 printed in House Report 110–666.

Mr. PEARCE. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 33 offered by Mr. PEARCE:

At the end of title XXXI, insert the following:

**SEC. 31___. INCREASED FUNDING FOR RELIABLE REPLACEMENT WARHEAD PROGRAM.**

(a) INCREASE.—The amount in section 3101 for weapons activities, National Nuclear Security Administration, is hereby increased by $10,000,000, to be available for the Reliable Replacement Warhead program.

(b) OFFSET.—The amount in section 2402 is hereby reduced by $10,000,000, to be derived from energy conservation on military installations.

The Acting CHAIRMAN. Pursuant to House Resolution 1218, the gentleman from New Mexico (Mr. PEARCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. PEARCE. Mr. Chairman, I rise today to offer an amendment to restore a small sum of money into an important program, the Reliable Replacement Warhead program. The RRW is critically important for our national security. Our current nuclear stockpile is aging. As it ages, we must constantly pour more money into maintaining the aging weapons.

We have a choice to make as a Nation: Do we continue to rely on current weapon stockpiles and pay an increasing cost of maintaining the readiness and reliability of these weapons, or do we develop a new line of weapons to replace the current stockpile? The RRW would improve the overall shelf life of a warhead from 30 to over 50 years, and the program is true to its name.

RRW does not pursue new nuclear weapons capabilities. Rather, it pursues making our weapons more reliable, and more reliable weapons will help reduce the maintenance costs of our nuclear stockpile and ensure that we have stable and reliable weapons ready, and most notably, reduce our overall nuclear stockpile by potentially as many as 1,000 warheads.

Without RRW, we will continue to have a larger weapon stockpile. Not pursuing RRW is essentially counterproductive to our stated goals of arms reduction. Not only is my amendment the responsible thing to do for our national security, it's the fiscally responsible choice as well. The current life extension programs that are designed to extend the shelf life of expired warheads are at a great cost to the taxpayer.

I think we should all agree on the goal of reducing our total stockpile of nuclear arms, and if you agree with that goal, then I urge you to adopt my amendment to restore funding for the RRW program, the Reliable Replacement Warhead program.

I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Chairman, I rise in opposition.

The Acting CHAIRMAN. The gentlewoman from California is recognized for 5 minutes.

Mrs. TAUSCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Pearce amendment to H.R. 5658, the fiscal year 2009 defense authorization bill. The Pearce amendment would restore $10 million for the Reliable Replacement Warhead that our bill currently redirects to a more broad-based, advanced certification program. Our bill focuses on sustaining and modernizing the stockpile stewardship program, the core of this Nation's effort to ensure that our nuclear weapons are safe, secure, and reliable.

Before any decisions are made about RRW, we must first answer fundamental questions about our strategic posture and nuclear weapons policies. That's why Congress established the bipartisan Congressional Commission on the Strategic Posture of the United States in last year's National Defense Authorization Act.

The Commission's report, due in several months, and the nuclear posture review required of the next administration will help frame the looming decisions about sustaining our nuclear deterrent and modernizing the nuclear weapons complex.

One day, something like RRW may be part of a stockpile stewardship program. But no funds were appropriated to conduct the RRW design and cost study last year, and this year's request did not include nearly enough to complete the study. In this context, the committee-approved bill shifts $10 million requested for RRW to advance certification and authorizes the National Nuclear Security Administration to address questions raised by the JASON panel last year about the challenge of certifying RRW without underground testing.

The Pearce amendment offset is also a big problem. The offset is a $10 million cut to the DOD Energy Conservation Investment Program, or ECIP. The Department of Defense uses ECIP to reduce energy consumption and greenhouse gas emissions, increase the use of renewable energy and meet national energy policy goals. And ECIP works. Its projects have a nearly 2-to-1 savings to investment ratio on average. A $10 million reduction would be a 12½ percent cut to ECIP.

Our bill, H.R. 5658, takes a prudent, sound approach to stewardship of our Nation's nuclear deterrent.

I urge my colleagues to oppose the Pearce amendment.

I reserve the balance of my time.

Mr. PEARCE. Mr. Chairman, I would yield 1 minute to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I appreciate the gentleman for bringing this amendment, and we lament the fact that our nuclear warheads are getting older, that we don't have a testing regime in place any longer and that that necessarily deteriorates the reliability factor. So the idea was let's build a reliable replacement warhead, and the fact that we haven't proceeded down that path is really a tragedy.

Now, I know the gentleman has $10 million in this amendment for this Reliable Replacement Warhead. He takes some money from the energy conservation program, which has many, many good aspects. I know that some Members are torn between these two important goals, one of developing energy

conservation on military bases, and the other developing this warhead.

I come down, Mr. Chairman, on the side of ensuring that this critical asset, which is a very, very important part of America's security apparatus, that is, a reliable strategic deterrent, I come down on that side. As a result of that, I support Mr. PEARCE's amendment very strongly.

Mrs. TAUSCHER. Mr. Chairman, at this time I am happy to yield 1 minute to my colleague and friend from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I thank Mrs. TAUSCHER for her wise leadership.

Mr. Chairman, this amendment is unwise and, at the very least, premature. Existing Department of Energy Reports and reports from outside consultants, such as the JASON group, have made it clear that our existing nuclear weapons will be viable for decades. It makes no sense to begin construction of a new generation of nuclear weapons. It is not necessary, and worse, it would be harmful to our security.

In light of our efforts to convince other countries to abstain from pursuing nuclear weapons, a pressing, indeed critical, national need for our security to persuade other countries to abstain going forward with Reliable Replacement Warhead programs would not make sense. It was defunded last year by the Appropriations Committee largely for some of these reasons I have outlined.

Finally, the United States has not recently conducted a comprehensive review of its nuclear posture, and no construction of new nuclear weapons or major alterations of the DOE lab complexes should be made until such a review is completed.

Accordingly, I urge my colleagues to oppose the Pearce amendment.

Mr. PEARCE. Mr. Chairman, how much time is remaining?

The Acting CHAIRMAN. The gentleman from New Mexico has 2 minutes remaining. The gentlewoman from California has 1½ minutes remaining.

Mr. PEARCE. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I have heard the arguments that maybe we're taking too much money from the EEC program, the Energy Efficiency Conservation program, that we're actually taking 12 percent was what was stated, but actually the truth is from last year's funding, we're not taking a penny. We're actually leaving that program funded at exactly the same level.

I have heard that we should not be building new weapons in order to give the right example to some of our friends around the world. And when I consider our attempts to influence our friends in North Korea, I would think that our unwillingness to build new weapons won't influence them at all. And when I think about influencing our friends in Iran, I think that our new posture of not maintaining our nuclear weapons will not influence them at all. In fact, they might be influenced in the other way.

Mr. Chairman, the world is not safer since 9/11. The world is more dangerous. During the 50 or so years of the Cold War, we didn't experience one strike inside the United States that even came close to being like the attack on 9/11. Yet after the Cold War, 1993, we had the first attack on the World Trade Center and then the second attack in 2001.

The world is getting progressively more dangerous, and I think for us to think that we can negotiate with these different countries is one that we should back up with the capability to strike back if a strike is needed.

I would reserve the balance of my time, Mr. Chairman.

Mrs. TAUSCHER. Mr. Chairman, I just want to make sure that my colleague from New Mexico knows that we spend—and that anybody listening—we spend over $6 billion maintaining the weapons. So it's hardly not spending any money at all.

At this time, I am happy to yield the balance of my time to the gentleman from Indiana, the chairman of the Energy and Water Subcommittee, Mr. VISCLOSKY.

Mr. VISCLOSKY. Mr. Chairman, I greatly appreciate the chairwoman yielding to me, and I do rise in respectful opposition to the gentleman's amendment.

The fact is we ought to ensure our security as a Nation. To best do that, we need to develop, in a bipartisan fashion, in a fashion that exists over a number of administrations, over a number of Congresses regardless of who and which party controlled both those branches of government, a comprehensive post-Cold War, post-9/11 nuclear strategy.

My concern, because that $6 billion that the chairwoman accurately suggests we do spend on a nuclear weapons complex, is a complex that we have to re-examine and to characterize. If we begin the construction of a new weapon in place, we simply exacerbate the current problems.

In the end, we ought to develop a strategy and then determine the types and the numbers of weapons we need. And not just in the sense of nuclear, but conventional, as well as other aspects of what that plan should be as opposed to having a set number of weapons and of various types and then constructing a strategy around them.

The Energy and Water appropriations bill that was passed and is in effect as part of the omnibus package for fiscal year 2008 indicates that's exactly what this Nation should be about, and I would ask my colleagues to oppose the gentleman's amendment.

□ 1545

Mr. PEARCE. Mr. Chairman, I've listened with respect to the arguments from all of the speakers on the opposition side. I would note that $10 million, the amount that is designated for the RRW, is just enough to keep the doors open; that once we allow this team of experts to dissipate, once these people are hired away, then we will never build another team possible. This is just enough money to hold the human resources together to produce these weapons because we will not be able to produce them after we give up the human technology, the human capabilities, and so just enough to keep the doors open. It's exactly what the Senate did last year

I would urge passage of the Pearce amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico (Mr. PEARCE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. PEARCE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Mexico will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. BOREN

The Acting CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 110–666.

Mr. BOREN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. BOREN:

At the end of subtitle D of title III, add the following new section:

**SEC. 335. EXCEPTION TO ALTERNATIVE FUEL PROCUREMENT REQUIREMENT.**

Section 526 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S. C. 17142) is amended—

(1) by striking ''No Federal agency'' and inserting ''(a) REQUIREMENT.—Except as provided in subsection (b), no Federal agency''; and

(2) by adding at the end the following:

''(b) EXCEPTION.—Subsection (a) does not prohibit a Federal agency from entering into a contract to purchase a generally available fuel that is not an alternative or synthetic fuel or predominantly produced from a nonconventional petroleum source, if—

''(1) the contract does not specifically require the contractor to provide an alternative or synthetic fuel or fuel from a nonconventional petroleum source;

''(2) the purpose of the contract is not to obtain an alternative or synthetic fuel or fuel from a nonconventional petroleum source; and

''(3) the contract does not provide incentives for a refinery upgrade or expansion to allow a refinery to use or increase its use of fuel from a nonconventional petroleum source.''.

The Acting CHAIRMAN. Pursuant to House Resolution 1218, the gentleman from Oklahoma (Mr. BOREN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Oklahoma.

Mr. BOREN. Mr. Chairman, I yield myself as much time as I may consume.

Today, I rise in support of my amendment to the Duncan Hunter National

Defense Authorization Act for Fiscal Year 2009 that would bring additional clarity to the language in section 526 of the Energy Independence and Security Act of 2007.

First, I would like to thank Chairman SKELTON and Ranking Member HUNTER for their exceptional work in crafting this important piece of legislation that is extremely vital for the defense needs of this Nation. This is a good bill. I believe it will address the readiness needs of our Armed Forces for the near and distant future. Our servicemembers that so bravely protect and defend our Nation deserve nothing less than our full support.

Mr. Chairman, my amendment now being considered before this Chamber would amend section 526 of the Energy Independence and Security Act in a manner that would address the concerns that I share with many of my fellow colleagues within this Chamber.

Section 526 prohibits any Federal agency from entering into a contract to purchase alternative or synthetic fuels for mobility-related purposes, unless the life-cycle greenhouse gas emissions of such fuels are less than that of conventional petroleum-based fuels.

While I recognize the positive intent behind section 526 to reduce greenhouse gas emissions, I have strong concerns about how it will affect the ability of DOD to provide for the future energy needs of our Armed Forces.

Section 526 falls short of determining what alternative or synthetic fuels Federal agencies are prohibited from contracting to purchase. It also does not clearly define ''nonconventional petroleum sources.'' This ambiguity in the law, therefore, creates uncertainty as to whether the Department of Defense can procure generally available fuels that contain mix-in amounts of fuel derived from nonconventional petroleum sources, such as oil sands.

My amendment would amend section 526 to allow DOD and other Federal agencies to enter into contracts to purchase generally available fuels that are not predominantly derived from nonconventional fuel sources. Any contract to purchase such fuel must specify that the lifecycle greenhouse emissions are less than that of conventional petroleum sources.

If my amendment is adopted, it would not repeal section 526. Rather, it will improve section 526 to provide additional clarity that is needed to meet the future energy needs of our Armed Forces.

Mr. Chairman, this amendment reflects an agreement—this is very important—this is an agreement that was reached with the respective committees of jurisdiction, House leadership and myself. I am very pleased that we were able to reach a compromise on the language of this amendment that is mutually acceptable to all parties.

Therefore, I urge my colleagues from both sides of the aisle to support the adoption of this amendment.

I want to thank the chairman.

I reserve the balance of my time.

Mr. HUNTER. I rise in opposition to the amendment, Mr. Chairman.

The Acting CHAIRMAN. The gentleman from California is recognized for 10 minutes.

Mr. HUNTER. Thank you, Mr. Chairman.

First, Mr. Chairman, I want to congratulate Mr. BOREN who is a great member of the Armed Services Committee for bringing this amendment, and I think we recognize a real problem with section 526, which is really a section, and his amendment does take away some of the onus of section 526.

Section 526 really weds us to high-grade Middle Eastern oil. It says that if you come up with other types of fuel that are alternatives, but that might have a greenhouse gas footprint higher than this high-end Middle Eastern oil, and there are very few types of petroleum-based fuels which do that, you can't use it.

Mr. BOREN has taken some of the onus off of that by saying that if it's not predominantly that type of oil, meaning you can use, for example, tar sands from Canada and other types, that section 526 does not apply.

Now, the problem is, I'm reading the last of the amendment, and one of the conditions is that the contracts under which this petroleum product would flow says the contract—and I'm quoting from the last of the amendment—the contract does not provide incentives for a refinery upgrade or expansion to allow a refinery to use or increase its use of fuel from a nonconventional petroleum source.

And I think we should be doing everything we can to expand refineries. I don't think we've built a refinery in decades, and we all sat in this Chamber and watched gas prices go through the roof here not too long ago when they had just a couple of refineries down for repair.

So I know Mr. BOREN's heart's in the right place, and he's brought us at least halfway across the river here. I guess what I'd like to see is the double Boren amendment that takes us all the way and eliminates section 526.

I congratulate the gentleman. I know a lot of our Members are going to probably support this because it, in fact, does take us part way home. I wish we could go all the way, and I thank the gentleman for his amendment.

I reluctantly oppose it because I would like to see the full loaf here.

I reserve the balance of my time.

Mr. BOREN. Mr. Chairman, I want to thank the ranking member for his friendship. I know this is his last term here on Capitol Hill, and he's been a great leader for our committee. He's also a fellow deer hunter friend of mine, and I would also like to see the double Boren amendment. We're going to try to take half a loaf right now and work on this in the future.

At this time, I would like to yield 1½ minutes to my great friend and colleague from the State of Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Chairman, I rise in support of the amendment offered by my good friend from Oklahoma (Mr. BOREN).

You know, the Canadian ambassador to the United States and some oil companies have expressed concern about the application of section 526 to petroleum derived from oil sands.

North American oil sands are vital to United States oil supplies. Oil sands represent approximately 5 percent of the total U.S. oil supply and are mixed in with fuel derived from other sources.

This amendment addresses the concerns that have been raised, while preserving the overall intent of section 526. Section 526 establishes a positive goal for future alternative fuels greenhouse gas emissions. This amendment clarifies section 526 while retaining the standards it sets for greenhouse gas emissions.

This amendment would simply provide an exception to section 526 by exempting contracts for generally available fuels that are not predominantly produced from nonconventional petroleum sources, thereby addressing the uncertainty regarding the presence of fuel from oil sands mixed with fuel from other sources in existing commercial processes. And my friends, all I can say is there's always a first time.

I'd like to compliment my friend for coming up with this amendment, and I urge my colleagues to support this amendment.

Mr. HUNTER. Mr. Chairman, I would like to yield at this time 3 minutes to Mr. UPTON, the gentleman from Michigan.

Mr. UPTON. Mr. Chairman, I rise in support of the amendment, though I wish it could do a lot more. I appreciate your remarks, my friend from Oklahoma, and certainly my good friend from Texas, a member of the House Armed Services Committee, and I, in large part, echo the remarks of my good friend, the former chairman and now ranking member, Mr. HUNTER.

Section 526, I'm not sure where it really came from. It was a provision that was snuck in a major energy bill this last year, and it somehow became law. And sadly, as we talk to our Canadian fronts, they're producing 1.5 million barrels of oil a day, 1.5 million barrels a day from oil shale, tar sands rather, in Alberta, and they want to send it to their good friends to the south, the United States of America. And this section 527 stops it at the border. It prevents it from coming in.

Now, I think we all know that we have a supply problem in this country which is why the price of gasoline continues to go up as it has every single day. And until we get the message out that we need more supply so that we can counter this price increase, they're going to continue to go up. It's crazy to think that our friends, the Canadians, who have all of this up there and want to send it to us down here in the Lower 48, cannot do that.

As I sat down with their ambassador a few weeks ago and their energy minister as well, they're producing at least 1.5 million barrels a day. They're anticipating within 4 or 5 years they're going to be producing as much as 4 million barrels a day. They can't consume that all perhaps, and guess what they're going to do. They're likely to build a pipeline, and they're going to send it west. It's going to end up in China or someplace else, rather than coming down and be refined in this country and used by our motorists across the country.

So, for me, I'd like to repeal the whole section, and I know the gentleman doesn't do that in this amendment. But it's a step in the right direction, and I would like to think that we can hold our nose and be able to support this amendment, make it part of going to conference and perhaps even make it better when it emerges from the House and the Senate.

I appreciate the gentleman's willingness to work with Members on both sides, and I certainly appreciate a number of my colleagues on that side of the aisle who are looking to work with me to try and repeal the whole section. But we realize that the Rules Committee was not going to say ''yes'' to us, and this is one step.

We'd like to take a giant step, which this bill does not do, but at least it is going in the right direction, increasing our supply to a degree so that maybe we can have some downward pressure on the price of gasoline at the pump for all Americans across the country.

Mr. BOREN. I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I think we've had a good discussion, and I appreciate the gentleman's amendment and his contribution to the committee, and we would yield back at this time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. BOREN).

The amendment was agreed to.

AMENDMENT NO. 15 OFFERED BY MR. WAXMAN

The Acting CHAIRMAN. It is now in order to consider amendment No. 15 printed in House Report 110–666.

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. WAXMAN:

Add at the end of the bill the following new division:

**DIVISION D—GOVERNMENTWIDE ACQUISITION IMPROVEMENTS**

Sec. 4001. Short title.

TITLE XLI—ENHANCED COMPETITION

Sec. 4101. Minimizing sole-source contracts.
Sec. 4102. Limitation on length of certain noncompetitive contracts.
Sec. 4103. Requirement for purchase of property and services pursuant to multiple award contracts.

TITLE XLII—CURBING ABUSE-PRONE CONTRACTS

Sec. 4201. Regulations to minimize the inappropriate use of cost-reimbursement contracts.
Sec. 4202. Preventing abuse of interagency contracts.
Sec. 4203. Prohibitions on the use of lead systems integrators.
Sec. 4204. Regulations on excessive pass-through charges.
Sec. 4205. Linking of award and incentive fees to acquisition outcomes.
Sec. 4206. Minimizing abuse of commercial services item authority.

TITLE XLIII—ACQUISITION WORKFORCE

Sec. 4301. Acquisition workforce development fund.
Sec. 4302. Contingency contracting corps.

TITLE XLIV—ANTI-FRAUD PROVISIONS

Sec. 4401. Protection for contractor employees from reprisal for disclosure of certain information.
Sec. 4402. Mandatory Fraud Reporting.
Sec. 4403. Access of General Accounting Office to Contractor Employees.
Sec. 4404. Preventing conflicts of interest.

TITLE XLV—ENHANCED CONTRACT TRANSPARENCY

Sec. 4501. Disclosure of CEO salaries.
Sec. 4502. Database for contracting officers and suspension and debarment officials.
Sec. 4503. Review of database.
Sec. 4504. Disclosure in applications.
Sec. 4505. Role of interagency committee.
Sec. 4506. Authorization of independent agencies.
Sec. 4507. Authorization of appropriations.
Sec. 4508. Report to Congress.
Sec. 4509. Improvements to the Federal procurement data system.

**SEC. 4001. SHORT TITLE.**

This division may be cited as the ''Clean Contracting Act of 2008''.

**TITLE XLI—ENHANCED COMPETITION**

**SEC. 4101. MINIMIZING SOLE-SOURCE CONTRACTS.**

(a) PLANS REQUIRED.—Subject to subsection (c), the head of each executive agency covered by title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall develop and implement a plan to minimize, to the maximum extent practicable, the use of contracts entered into using procedures other than competitive procedures by the agency or department concerned. The plan shall contain measurable goals and shall be completed and submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate and, in the case of the Department of Defense and the Department of Energy, the Committees on Armed Services of the Senate and the House of Representatives, with a copy provided to the Comptroller General, not later than 1 year after the date of the enactment of this Act.

(b) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the plans provided under subsection (a) and submit a report to Congress on the plans not later than 18 months after the date of the enactment of this Act.

(c) REQUIREMENT LIMITED TO CERTAIN AGENCIES.—The requirement of subsection (a) shall apply only to those agencies that awarded contracts in a total amount of at least $1,000,000,000 in the fiscal year preceding the fiscal year in which the report is submitted.

(d) CERTAIN CONTRACTS EXCLUDED.—The contracts entered into under the authority of the Small Business Act shall not be included in the plans developed and implemented under subsection (a), except contracts that are awarded pursuant to section 602 of Public Law 100–656 (as amended by section 22 of Public Law 101–37 (103 Stat. 75), section 2 of title V of Public Law 101–515 (104 Stat. 2140), section 205 of Public Law 101–574 (104 Stat. 2819), and section 608 of Public Law 103–403 (108 Stat. 4204)).

**SEC. 4102. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.**

(a) CIVILIAN AGENCY CONTRACTS.—Section 303(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(d)) is amended by adding at the end the following new paragraph:

''(3)(A) The contract period of a contract described in subparagraph (B) that is entered into by an executive agency pursuant to the authority provided under subsection (c)(2)—

''(i) may not exceed the time necessary—

''(I) to meet the unusual and compelling requirements of the work to be performed under the contract; and

''(II) for the executive agency to enter into another contract for the required goods or services through the use of competitive procedures; and

''(ii) may not exceed 270 days unless the head of the executive agency entering into such contract determines that exceptional circumstances apply.

''(B) This paragraph applies to any contract in an amount greater than $1,000,000.''.

(b) DEFENSE CONTRACTS.—Section 2304(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(3)(A) The contract period of a contract described in subparagraph (B) that is entered into by an agency pursuant to the authority provided under subsection (c)(2)—

''(i) may not exceed the time necessary—

''(I) to meet the unusual and compelling requirements of the work to be performed under the contract; and

''(II) for the agency to enter into another contract for the required goods or services through the use of competitive procedures; and

''(ii) may not exceed 270 days unless the head of the agency entering into such contract determines that exceptional circumstances apply.

''(B) This paragraph applies to any contract in an amount greater than $1,000,000.''.

**SEC. 4103. REQUIREMENT FOR PURCHASE OF PROPERTY AND SERVICES PURSUANT TO MULTIPLE AWARD CONTRACTS.**

(a) REGULATIONS REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to require enhanced competition in the purchase of property and services by all executive agencies pursuant to multiple award contracts.

(b) CONTENT OF REGULATIONS.—

(1) IN GENERAL.—The regulations required by subsection (a) shall provide, at a minimum, that each individual purchase of property or services in excess of the simplified acquisition threshold that is made under a multiple award contract shall be made on a competitive basis unless a contracting officer—

(A) waives the requirement on the basis of a determination that—

(i) one of the circumstances described in paragraphs (1) through (4) of section 303J(b) of the Federal Property and Administrative

Services Act of 1949 (41 U.S.C. 253j(b)) or section 2304c(b) of title 10, United States Code, applies to such individual purchase; or

(ii) a law expressly authorizes or requires that the purchase be made from a specified source; and

(B) justifies the determination in writing.

(2) COMPETITIVE BASIS PROCEDURES.—For purposes of this subsection, an individual purchase of property or services is made on a competitive basis only if it is made pursuant to procedures that—

(A) except as provided in paragraph (3), require fair notice of the intent to make that purchase (including a description of the work to be performed and the basis on which the selection will be made) to be provided to all contractors offering such property or services under the multiple award contract; and

(B) afford all contractors responding to the notice a fair opportunity to make an offer and have that offer fairly considered by the official making the purchase.

(3) EXCEPTION TO NOTICE REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding paragraph (2), and subject to subparagraph (B), notice may be provided to fewer than all contractors offering such property or services under a multiple award contract as described in subsection (d)(2) if notice is provided to as many contractors as practicable.

(B) LIMITATION ON EXCEPTION.—A purchase may not be made pursuant to a notice that is provided to fewer than all contractors under subparagraph (A) unless—

(i) offers were received from at least 3 qualified contractors; or

(ii) a contracting officer of the executive agency determines in writing that no additional qualified contractors were able to be identified despite reasonable efforts to do so.

(c) PUBLIC NOTICE REQUIREMENTS RELATED TO SOLE SOURCE TASK OR DELIVERY ORDERS.—Not later than 12 months after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to require the head of each executive agency to publish on—

(1) FedBizOpps notice of all sole source task or delivery orders in excess of the simplified acquisition threshold that are placed against multiple award contracts not later than 14 days after such orders are placed, except in the event of extraordinary circumstances or classified orders; and

(2) the website of the agency and through a Governmentwide website selected by the Administrator for Federal Procurement Policy the determinations required by (b)(1)(B) related to sole source task or delivery orders placed against multiple award contracts not later than 14 days after such orders are placed, except in the event of extraordinary circumstances or classified orders.

(3) This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5, United States Code.

(d) DEFINITIONS.—In this section:

(1) The term ''individual purchase'' means a task order, delivery order, or other purchase.

(2) The term ''multiple award contract'' means—

(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of title 10, United States Code;

(B) a multiple award task order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

(C) any other indefinite delivery, indefinite quantity contract that is entered into by the head of an executive agency with 2 or more sources pursuant to the same solicitation.

(3) The term ''sole source task or delivery order'' means any order that does not follow the competitive base procedures in paragraphs (b)(2) or (b)(3).

(e) APPLICABILITY.—The regulations required by subsection (a) shall apply to all individual purchases of property or services that are made under multiple award contracts on or after such effective date, without regard to whether the multiple award contracts were entered into before, on, or after such effective date.

## TITLE XLII—CURBING ABUSE-PRONE CONTRACTS

### SEC. 4201. REGULATIONS TO MINIMIZE THE INAPPROPRIATE USE OF COST-REIMBURSEMENT CONTRACTS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to minimize the inappropriate use of cost-reimbursement contracts and to ensure the proper use of such contracts.

(b) CONTENT.—The regulations required under subsection (a) shall—

(1) identify, at a minimum—

(A) the circumstances under which cost reimbursement contracts or task or delivery orders are appropriate;

(B) the acquisition plan facts necessary to support a decision to use cost reimbursement contracts;

(C) the acquisition workforce resources necessary to award and manage cost reimbursement contracts; and

(2) establish a requirement for each executive agency to—

(A) annually assess its use of cost-reimbursement contracts;

(B) establish and implement metrics to measure progress toward minimizing any inappropriate use of cost-reimbursement contracts identified during the assessment process; and

(C) prepare and submit an annual report to the Office of Management and Budget assessing progress in meeting the metrics established in (B).

(c) COMPTROLLER GENERAL EVALUATIONS.—Within one year of the completion of the first annual reports required by subsection (b)(2)(C), the Comptroller General shall review the progress of agencies in implementing the regulations required by (a).

(d) REPORT.—Subject to subsection (f), the Director of the Office of Management and Budget shall submit an annual report to Congressional committees identified in subparagraph (e) and the Comptroller General on the use of cost-reimbursement contracts and task or delivery orders by all Federal agencies, including the Department of Defense. The report shall be submitted no later than March 1 and will cover the fiscal year ending September 30 of the prior year. The report shall include—

(1) the total number and value of contracts awarded and orders issued during the covered fiscal year;

(2) the number and value of cost-reimbursement contracts awarded and orders issued during the covered fiscal year;

(3) a list of contracts and task and delivery orders identified in subparagraph (2) exceeding ten million dollars ($10,000,000), whose period of performance, including options, exceeded three years; the reasons why such contracts or orders could not be priced or converted to a fixed-price basis; and the actions being taken by the agency to do so;

(4) a certification by the contracting agency that for each contract identified in subparagraph (3) that an appropriate number of trained acquisition personnel, consistent with the complexity and risk associated with the contract or order, have been assigned to provide oversight of the contractor's performance; and

(5) a description of each agency's actions to assure the appropriate use of cost-reimbursement contracts.

(e) CONGRESSIONAL COMMITTEES DEFINED.—The report required by subsection (d) shall be submitted to the Committee on Oversight and Government Reform of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; the Committees on Appropriations of the House of Representatives and the Senate; and, in the case of the Department of Defense and the Department of Energy, the Committees on Armed Services of the Senate and the House of Representatives.

(f) REQUIREMENTS LIMITED TO CERTAIN AGENCIES.—The requirements of subsections (b) and (d) shall apply only to those agencies that awarded contracts and issued orders in a total amount of at least $1,000,000,000 in the fiscal year proceeding the fiscal year in which the assessments and reports are submitted.

### SEC. 4202. PREVENTING ABUSE OF INTERAGENCY CONTRACTS.

(a) OFFICE OF MANAGEMENT AND BUDGET POLICY GUIDANCE.—

(1) REPORT AND GUIDELINES.—Not later than one year after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(A) submit to Congress a comprehensive report on interagency acquisitions, including their frequency of use, management controls, cost-effectiveness, and savings generated; and

(B) issue guidelines to assist the heads of executive agencies in improving the management of interagency acquisitions.

(2) MATTERS COVERED BY GUIDELINES.—For purposes of paragraph (1)(B), the Director shall include guidelines on the following matters:

(A) Procedures for the use of interagency acquisitions to maximize competition, deliver best value to executive agencies, and minimize waste, fraud, and abuse.

(B) Categories of contracting inappropriate for interagency acquisition, due to high risk of waste, fraud, or abuse.

(C) Requirements for training acquisition workforce personnel in the proper use of interagency acquisitions.

(b) REGULATIONS REQUIRED.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require that all interagency acquisitions—

(1) include a written agreement between the requesting agency and the servicing agency assigning responsibility for the administration and management of the contract;

(2) include a determination that an interagency acquisition is the best procurement alternative; and

(3) include sufficient documentation to ensure an adequate audit.

(c) AGENCY REPORTING REQUIREMENT.—The senior procurement executive for each executive agency shall, as directed by the Director of the Office of Management and Budget, submit to the Director annual reports on the actions taken by the executive agency pursuant to the guidelines issued under subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term ''executive agency'' has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(2) The term ''head of executive agency'' means the head of an executive agency except that, in the case of a military department, the term means the Secretary of Defense.

(3) The term ''interagency acquisition'' means a procedure by which an executive agency needing supplies or services (the requesting agency) obtains them from another executive agency (the servicing agency). The term includes acquisitions under section 1535 of title 31, United States Code (commonly referred to as the ''Economy Act'', Federal Supply Schedules above $500,000, and Governmentwide acquisition contracts.

**SEC. 4203. PROHIBITIONS ON THE USE OF LEAD SYSTEMS INTEGRATORS.**

(a) PROHIBITION ON NEW LEAD SYSTEMS INTEGRATORS.—(1) Effective October 1, 2010, the head of an executive agency may not award a new contract for lead systems integrator functions in the acquisition of a major system.

(2) PROHIBITION ON LEAD SYSTEMS INTEGRATORS BEYOND DEMONSTRATION LEVEL PHASE.—Effective on the date of the enactment of this Act, an executive agency may award a new contract for lead systems integrator functions in the acquisition of a major system only if—

(A) the contract for the major system does not proceed beyond the demonstration phase-level; or

(B) the head of the agency determines in writing that it would not be practicable to carry out acquisition without continuing to use a contractor to perform lead systems integrator functions and that doing so is in the best interest of the agency.

(3) REQUIREMENTS RELATING TO DETERMINATIONS.—A determination under paragraph (2)(A)—

(A) shall specify the reasons why it would not be practicable to carry out the acquisition continuing to use a contractor to perform lead integrator functions (including a discussion of alternatives, such as the use of the agency workforce, or a system engineering and technical assistance contractor);

(B) shall include a plan for phasing out the use of contracted lead systems integrator functions over the shortest period of time consistent with the interest of the government;

(C) may not be delegated below the level of the Chief Acquisition Officer; and

(D) shall be provided to the Committee on Oversight and Government Reform in the House of Representatives and the Committee on Homeland Security and Governmental Affairs in the Senate at least 45 days before the award of a contract pursuant to the determination.

(b) ACQUISITION WORKFORCE.—

(1) REQUIREMENT.—The head of an executive agency shall ensure that the acquisition workforce is of the appropriate size and skill level necessary—

(A) to accomplish inherently governmental functions related to acquisition of major systems; and

(B) to effectuate the purpose of subsection (a) to minimize and eventually eliminate the use of contractors to perform lead systems integrator functions.

(2) REPORT.—The head of the agency shall annually include an update on the progress made in complying with paragraph (1) in the agency's Performance and Accountability Report.

(c) EXCEPTION FOR CONTRACTS FOR OTHER MANAGEMENT SERVICES.—The head of an executive agency may continue to award contracts for the procurement of services the primary purpose of which is to perform acquisition support functions with respect to the development or production of a major system, if the following conditions are met with respect to each such contract:

(1) The contract prohibits the contractor from performing inherently governmental functions.

(2) The head of the agency responsible for the development or production of the major system ensures that Federal employees are responsible for determining courses of action to be taken in the best interest of the government.

(3) The contract requires that the prime contractor for the contract may not advise or recommend the award of a contract or subcontract for the development or production of the major system to an entity owned in whole or in part by the prime contractor.

(d) DEFINITIONS.—In this section:

(1) LEAD SYSTEMS INTEGRATOR.—The term ''lead systems integrator'' means—

(A) a prime contractor for the development or production of a major system, if the prime contractor is not expected at the time of award to perform a substantial portion of the work on the system and the major subsystems; or

(B) a prime contractor under a contract for procurement of services the primary purpose of which to perform acquisition functions closely associated with inherently governmental functions with respect to the development or production of a major system.

(2) MAJOR SYSTEM.—The term ''major system'' has the meaning given such term in section 2302d of title 10, United States Code.

(3) DEMONSTRATION PHASE LEVEL.—For purposes of this section, the term ''demonstration phase level'' means—

(A) work performed prior to first article testing and approval (as defined in part 9.3 of the Federal Acquisition Regulation; or

(B) a level comparable to the level identified in subparagraph (A) which the FAR Council determines, by regulation, after consideration of the definition of low-rate initial production (as defined in section 2400 of title 10, United States Code.

(e) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense.

**SEC. 4204. REGULATIONS ON EXCESSIVE PASS-THROUGH CHARGES.**

(a) REGULATIONS REQUIRED.—

(1) Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulation shall be amended ensure that excessive pass-through charges on contracts or (or task or delivery orders) are not paid by the Federal Government.

(2) SCOPE OF REGULATIONS.—The regulations prescribed under this subsection—

(A) shall not apply to any firm, fixed-price contract or subcontract (or task or delivery order) that is—

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

(ii) for the acquisition of a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

(B) may include such additional exceptions as the Federal Acquisition Regulation Council determines to be necessary in the interest of the government.

(3) DEFINITION.—In this section, the term ''excessive pass-through charge'' means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower-tier contractor or subcontractor (other than charges for the direct costs of managing lower-tier contracts and subcontracts and overhead and profit based on such direct costs) and for which the contractor or subcontractor adds no, or negligible, value to a contract or subcontract.

(b) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense.

**SEC. 4205. LINKING OF AWARD AND INCENTIVE FEES TO ACQUISITION OUTCOMES.**

(a) GUIDANCE ON LINKING OF AWARD AND INCENTIVE FEES TO ACQUISITION OUTCOMES.—Not later than 12 months after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to provide executive agencies with instructions, including definitions, on the appropriate use of award and incentive fees in Federal acquisition programs.

(b) ELEMENTS.—The regulations under subsection (a) shall—

(1) ensure that all new contracts using award fees link such fees to acquisition outcomes (which shall be defined in terms of program cost, schedule, and performance);

(2) establish standards for identifying the appropriate level of officials authorized to approve the use of award and incentive fees in new contracts;

(3) provide guidance on the circumstances in which contractor performance may be judged to be ''excellent'' or ''superior'' and the percentage of the available award fee which contractors should be paid for such performance;

(4) establish standards for determining the percentage of the available award fee, if any, which contractors should be paid for performance that is judged to be ''acceptable'', ''average'', ''expected'', ''good'', or ''satisfactory'';

(5) ensure that no award fee may be paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract;

(6) provide specific direction on the circumstances, if any, in which it may be appropriate to roll over award fees that are not earned in one award fee period to a subsequent award fee period or periods;

(7) ensure consistent use of guidelines and definitions relating to award and incentive fees across the Federal Government;

(8) ensure that each executive agency—

(A) collects relevant data on award and incentive fees paid to contractors; and

(B) has mechanisms in place to evaluate such data on a regular basis;

(9) include performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes; and

(10) provide mechanisms for sharing proven incentive strategies for the acquisition of different types of products and services among contracting and program management officials.

**SEC. 4206. MINIMIZING ABUSE OF COMMERCIAL SERVICES ITEM AUTHORITY.**

(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended for the procurement of commercial services.

(b) APPLICABILITY OF COMMERCIAL PROCEDURES.—

(1) SERVICES OF A TYPE SOLD IN MARKETPLACE.—The regulations modified pursuant to subsection (a) shall ensure that services that are not offered and sold competitively in substantial quantities in the commercial marketplace, but are of a type offered and sold competitively in substantial quantities in the commercial marketplace, may be treated as commercial items for purposes of section 254b of title 41, United States Code (relating to truth in negotiations), only if the contracting officer determines in writing that the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such services.

(2) INFORMATION SUBMITTED.—To the extent necessary to make a determination under paragraph (1), the contracting officer may request the offeror to submit—

(A) prices paid for the same or similar commercial items under comparable terms

and conditions by both government and commercial customers; and

(B) if the contracting officer determines that the information described in subparagraph (A) is not sufficient to determine the reasonableness of price, other relevant information regarding the basis for price or cost, including information on labor costs, material costs, and overhead rates.

(c) TIME-AND-MATERIALS CONTRACTS.—

(1) COMMERCIAL ITEM ACQUISITIONS.—The regulations pursuant to subsection (a) shall ensure that procedures applicable to time-and-materials contracts and labor-hour contracts for commercial item acquisitions may be used only for the following:

(A) Services procured for support of a commercial item, as described in section 4(12)(E) of the Office Federal Procurement Policy Act (41 U.S.C. 403(12)(E)).

(B) Emergency repair services.

(C) Any other commercial services only to the extent that the head of the agency concerned approves a determination in writing by the contracting officer that—

(i) the services to be acquired are commercial services as defined in section 4(12)(F) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(F));

(ii) if the services to be acquired are subject to subsection (b), the offeror of the services has submitted sufficient information in accordance with that subsection;

(iii) such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and

(iv) the use of a time-and-materials or labor-hour contract type is in the best interest of the Government.

(2) NON-COMMERCIAL ITEM ACQUISITIONS.—Nothing in this subsection shall be construed to preclude the use of procedures applicable to time-and-materials contracts and labor-hour contracts for non-commercial item acquisitions for the acquisition of any category of services.

## TITLE XLIII—ACQUISITION WORKFORCE

### SEC. 4301. ACQUISITION WORKFORCE DEVELOPMENT FUND.

(a) PURPOSE.—The purpose of this section is to ensure that there are resources available to recruit, hire, educate, train and retain members of the Federal acquisition workforce with the requisite competencies and skills to ensure that the government receives best value property and services in its acquisitions.

(b) ESTABLISHMENT OF FUND.—Title III of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 101, et seq) is amended by adding at the end the following new section:

### "SEC. 324. ACQUISITION WORKFORCE DEVELOPMENT FUND.

''(a) The Administrator of General Services shall establish an acquisition workforce development fund.

''(1) The Administrator shall manage the fund through the Federal Acquisition Institute to recruit, hire, educate, train and retain members of the acquisition workforce of the executive agencies other than the Department of Defense.

''(2) The Administrator, in consultation with the Administrator for Federal Procurement Policy and the Chief Acquisition Officers or Senior Procurement Executives, as appropriate, of the executive agencies, other than the Department of Defense, shall issue detailed guidance for the administration and use of the Fund. Such guidance shall include provisions—

''(A) requiring agencies to identify members of their acquisition workforce consistent with section 433(i) of title 41.

''(B) identifying areas of need in the acquisition workforce for which amounts in the Fund may be used, including—

''(i) changes to the types of skills needed;

''(ii) incentives to retain qualified, experienced personnel; and

''(iii) incentives for attracting new, high-quality personnel;

''(C) describing the manner and timing for applications for amounts in the Fund to be submitted;

''(D) describing the evaluation criteria to be used for approving or prioritizing applications for amounts in the Fund in any fiscal year; and

''(E) describing measurable objectives of performance for determining whether amounts in the Fund are being used in compliance with this section.

''(3) The Director of the Office of Management and Budget shall be the approving official for any disbursements from the Fund.

''(4) The costs of administering the fund, including the direct and indirect costs of those employees, not to exceed 5 percent per annum, shall be paid out of the fund.

''(5) Amounts in the fund may not be used to pay the base salary of any full-time equivalent position currently filled as of date of enactment of the Clean Contracting Act of 2008.

''(b) There shall be credited to the acquisition workforce development fund the following percentages of the value of funds expended by executive agencies for service contracts, other than services relating to research and development and services relating to construction:

''(1) for fiscal year 2009, 0.5 percent.

''(2) for fiscal year 2010, 1 percent.

''(3) for fiscal year 2011, 1.5 percent.

''(4) for any fiscal year after fiscal year 2011, 2 percent.

''(c) The Director of the Office and Management and Budget may reduce the amount to be credited upon a determination that the funds being credited are excess to the needs of the acquisition workforce development fund. In no event shall the Director of the Office of Management Budget reduce the percentage for any fiscal year below a percentage that results in the deposit in a fiscal year of an amount equal to the following

''(1) for fiscal year 2009, 75,000,000.

''(2) for fiscal year 2010, 100,000,000.

''(3) for fiscal year 2011, 125,000,000.

''(4) for an fiscal year after 2011, 150,000,000.

''(d) Not later than 30 days after the end of fiscal year 2008, and 30 days after the end of each fiscal year quarter thereafter, the head of each executive agency shall remit to the General Services Administration the amount required to be credited to the fund with respect to the contracts, leases, task and delivery order described in subsection (b).

''(e) The Administrator of General Services, through the Office of the Chief Acquisition Officer, shall ensure that funds collected under this section are not used for any purposes other than the purposes specified in subsection (a).

''(f) Amounts credited to the fund shall be in addition to funds requested and appropriated for salaries, benefits, education and training for all current acquisition workforce members.

''(g) Amounts credited to the fund shall remain available until expended.

''(h) Not later than 60 days after the end of each fiscal year beginning with fiscal year 2008, the Administrator of General Services shall submit to the congressional committees identified in subsection (i) a report on the operation of the fund during such fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

''(1) A statement of the amounts remitted to the Administrator for crediting to the Fund for such fiscal year by each executive agency and a statement of the amounts credited to the Fund.

''(2) A description of the expenditures made from the Fund, including the purpose of such expenditures.

''(3) A description and assessment of improvements in the Federal acquisition workforce resulting from such expenditures, including the extent to which the fund has been used to increase the number of individuals in the acquisition workforce relative to the number of individuals in the acquisition workforce as of the date of enactment.

''(4) Recommendations for additional authorities to fulfill the purpose of the Fund.

''(5) A statement of the balance remaining in the Fund at the end of such fiscal year.

''(i) The report required by subsection (h) shall be submitted to the Committee on Oversight and Government Reform of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; and the Committees on Appropriations of the House of Representatives and the Senate.

''(j) No expired balances appropriated prior to the date of the enactment of the Clean Contracting Act of 2008 may be used to make any payment to the Acquisition Workforce Development Fund.''.

(c) EXCEPTION.—This section and the amendments made by this section shall not apply to the acquisition workforce of the Department of Defense.

### SEC. 4302. CONTINGENCY CONTRACTING CORPS.

The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.), as amended by section 102, is further amended by adding at the end the following new section:

### "SEC. 44. CONTINGENCY CONTRACTING CORPS.

''(a) ESTABLISHMENT.—The Administrator of General Services in consultation with the Director of the Office of Management and Budget, the Secretary of Defense and the Secretary of Homeland Security, shall establish a Governmentwide Contingency Contracting Corps (in this section, referred to as the 'Corps'). The members of the Corps shall be available for deployment in responding to an emergency or major disaster, or a contingency operation, within or outside the continental United States.

''(b) APPLICABILITY.—The authorities provided in this section apply with respect to any procurement of property or services by or for an executive agency that, as determined by the head of such executive agency, are to be used—

''(1) in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code; or

''(2) to respond to an emergency or major disaster as defined in section 5122 of title 41, United States Code.

''(c) MEMBERSHIP.—Membership in the Corps shall be voluntary and open to all Federal employees and uniformed members of the Armed Services, who are currently members of the Federal acquisition workforce. As a condition precedent to membership in the Corps, each volunteer will execute a mobility agreement consistent with the provisions included in sections 3371 through 3375 of title 5, United States Code.

''(d) EDUCATION AND TRAINING.—The Director of the Federal Acquisition Institute, in consultation with the Chief Acquisition Officers Council shall establish educational and training requirements for members of the Corps, and shall pay for these additional requirements from funds available in the acquisition workforce development fund or the Department of Defense Acquisition Workforce Development Fund.

''(e) CLOTHING AND EQUIPMENT.—The Administrator shall identify any necessary clothing and equipment requirements, and shall pay for this clothing and equipment from funds available in the acquisition workforce development fund or the Department of

Defense Acquisition Workforce Development Fund.

''(f) SALARY.—The salaries for members of the Corps shall be paid by their parent agencies out of funds available.

''(g) AUTHORITY TO DEPLOY THE CORPS.—The Director of the Office of Management and Budget shall have the authority to determine when members of the Corps shall be deployed, in consultation with the head of the agency or agencies employing the members to be deployed.

''(h) ANNUAL REPORT.—

''(1) IN GENERAL.—The Administrator of General Services shall provide to the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate and the Committee on Oversight and Government Reform and the Committee on Armed Services of the House of Representatives an annual report on the status of the Contingency Contracting Corps as of September 30 of each fiscal year.

''(2) CONTENT.—At a minimum, each report under paragraph (1) shall include the number of members of the Contingency Contracting Corps, the total cost of operating the program, the number of deployments of members of the program, and the performance of members of the program in deployment.''.

## TITLE XLIV—ANTI-FRAUD PROVISIONS

**SEC. 4401. PROTECTION FOR CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.**

(a) INCREASED PROTECTION FROM REPRISAL.—Subsection (a) of section 315 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265(a), is amended—

(1) by striking ''disclosing to a Member of Congress'' and inserting ''disclosing to a Member of Congress, a representative of a committee of Congress, an Inspector General, the Government Accountability Office, an employee of an executive agency responsible for contract oversight or management,''; and

(2) by striking ''information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract)'' and inserting ''information that the employee reasonably believes is evidence of gross mismanagement of an executive agency contract or grant, a gross waste of executive agency funds, a substantial and specific danger to public health or safety, or a violation of law related to an executive agency contract (including the competition for or negotiation of a contract) or grant''.

(b) CLARIFICATION OF INSPECTOR GENERAL DETERMINATION.—Subsection (b) of such section is amended—

(1) by inserting ''(1)'' after ''INVESTIGATION OF COMPLAINTS.—'' and

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

''(2)(A) Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous or submit a report under paragraph (1) within 180 days after receiving the complaint.

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

(c) ACCELERATION OF SCHEDULE FOR DENYING RELIEF OR PROVIDING REMEDY.—Subsection (c) of such section is amended in paragraph (1), by striking ''If the head of an executive agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the agency may'' and inserting after ''(1)'' the following: ''Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of an executive agency concerned shall determine whether there is sufficient basis to conclude that the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall''.

(d) DEFINITIONS.—Subsection (e) of such section is amended in paragraph (2), by inserting ''or a grant'' after ''a contract''.

**SEC. 4402. MANDATORY FRAUD REPORTING.**

(a) AMENDMENT OF FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007-006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

(b) COVERED CONTRACT DEFINED.—In this section, the term ''covered contract'' means any contract in an amount greater than $5,000,000 and more than 120 days in duration.

**SEC. 4403. ACCESS OF GENERAL ACCOUNTING OFFICE TO CONTRACTOR EMPLOYEES.**

(a) CIVILIAN AGENCIES.—Section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) is amended in subsection (c)(1) by inserting after ''records'' '',or interview any employee,''.

(b) DEFENSE AGENCIES.—Section 2313 of title 10, United States Code, is amended in subsection (c)(1) by inserting after ''records'' '', or interview any employee,''.

**SEC. 4404. PREVENTING CONFLICTS OF INTEREST.**

(a) ORGANIZATIONAL CONFLICTS OF INTEREST.—Not later than 12 months after the date of the enactment of this Act, the Administrator of the Office of Federal Procurement Policy shall review the Federal Acquisition Regulation to determine whether it contains sufficiently rigorous, comprehensive, and uniform Governmentwide policies to prevent and mitigate organizational conflicts of interest in Federal contracting. In reviewing such regulations, the Administrator and the Federal Acquisition Regulatory Council, in consultation with the Office of Government Ethics, shall, at a minimum, make appropriate revisions to the regulations to—

(1) establish a standard organizational conflict of interest clause, or a set of standard organizational conflict of interest clauses, for inclusion in solicitations and contracts that set forth the contractor's responsibilities with respect to its employees, subcontractors, partners, and any other affiliated organizations or individuals;

(2) address conflicts that may arise in the context of developing requirements and statements of work, the selection process, and contract administration;

(3) ensure that adequate organizational conflict of interest safeguards are enacted in situations in which contractors are employed by the Federal Government to oversee other contractors or are hired to assist in the acquisition process; and

(4) ensure that any policies or clauses developed address conflicts of interest that may arise from financial interests, unfair competitive advantages, and impaired objectivity.

(b) PERSONAL CONFLICTS OF INTEREST.—Not later than 12 months after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to establish uniform, Governmentwide policies to prevent personal conflicts of interest by contractor employees in Federal contracting. In developing such regulations, the Federal Acquisition Regulatory Council, in consultation with the Office of Government Ethics, shall, at a minimum—

(1) develop a standard contractor employee personal conflicts of interest clause or a set of standard clauses for inclusion in solicitations and contracts that set forth the contractor's responsibility to ensure that employees who are performing contracted services for the Federal Government are free of personal conflicts of interest;

(2) identify the contracting methods, types and services that raise heightened concerns for potential conflicts of interest; and

(3) establish specified principles, examples, a definition of personal conflicts of interest relevant to contractor employees working on Federal Government contracts, specific prohibitions, and where applicable, greater disclosure for certain contractor employees, that will accomplish the end objective of ethical behavior.

(c) BEST PRACTICES.—The Administrator of the Office of Federal Procurement Policy, in consultation with the Office of Governmentwide Ethics, shall develop and maintain a repository of best practices relating to the prevention and mitigation of organizational and personal conflicts of interest.

## TITLE XLV—ENHANCED CONTRACT TRANSPARENCY

**SEC. 4501. DISCLOSURE OF CEO SALARIES.**

(a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109–282; 31 U.S.C. 6101 note) is amended—

(1) by striking ''and'' at the end of subparagraph (E);

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

(3) by inserting after subparagraph (E) the following new subparagraph:

''(F) the names and total compensation of the five most highly compensated officers of the entity if—

''(i) the entity in the preceding fiscal year received—

''(I) 80 percent or more of its annual gross revenues in Federal awards; and

''(II) $25,000,000 or more in annual gross revenues from Federal awards; and

''(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.''.

(b) REGULATIONS REQUIRED.—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this title. Such regulations shall include a definition of ''total compensation'' that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation).

**SEC. 4502. DATABASE FOR CONTRACTING OFFICERS AND SUSPENSION AND DEBARMENT OFFICIALS.**

(a) IN GENERAL.—Subject to the authority, direction, and control of the Director of the Office of Management and Budget, the Administrator of General Services shall establish and maintain a database of information regarding integrity and performance of persons awarded Federal contracts and grants for use by Federal officials having authority over contracts and grants.

(b) PERSONS COVERED.—The database shall cover any person awarded a Federal contract or grant if any information described in subsection (c) exists with respect to such person.

(c) INFORMATION INCLUDED.—With respect to a person awarded a Federal contract or grant, the database shall include information (in the form of a brief description) for at least the most recent 5-year period regarding—

(1) any civil or criminal proceeding, or any administrative proceeding to the extent that such proceeding results in both a finding of fault on the part of the person and the payment of restitution to a government of $5,000 or more, concluded by the Federal Government or any State government against the person, and any amount paid by the person to the Federal Government or a State government;

(2) all Federal contracts and grants awarded to the person that were terminated in such period due to default;

(3) all Federal suspensions and debarments of the person in that period;

(4) all Federal administrative agreements entered into by the person and the Federal Government in that period to resolve a suspension or debarment proceeding and, to the maximum extent practicable, agreements involving a suspension or debarment proceeding entered into by the person and a State government in that period; and

(5) all final findings by a Federal official in that period that the person has been determined not to be a responsible source under either subparagraph (C) or (D) of section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)).

(d) REQUIREMENTS RELATING TO INFORMATION IN DATABASE.—

(1) DIRECT INPUT AND UPDATE.—The Administrator shall design and maintain the database in a manner that allows the appropriate officials of each Federal agency to directly input and update in the database information relating to actions it has taken with regard to contractors or grant recipients.

(2) TIMELINESS AND ACCURACY.—The Administrator shall develop policies to require—

(A) the timely and accurate input of information into the database;

(B) notification of any covered person when information relevant to the person is entered into the database; and

(C) an opportunity for any covered person to append comments to information about such person in the database.

(e) AVAILABILITY.—

(1) AVAILABILITY TO ALL FEDERAL AGENCIES.—The Administrator shall make the database available to all Federal agencies.

(2) AVAILABILITY TO THE PUBLIC.—The Administrator shall make the database available to the public by posting the database on the General Services Administration website.

(3) LIMITATION.—This subsection does not require the public availability of information that is exempt from public disclosure under section 552(b) of title 5, United States Code.

**SEC. 4503. REVIEW OF DATABASE.**

(a) REQUIREMENT TO REVIEW DATABASE.—Prior to the award of a contract or grant, an official responsible for awarding a contract or grant shall review the database established under section 2.

(b) REQUIREMENT TO DOCUMENT PRESENT RESPONSIBILITY.—In the case of a prospective awardee of a contract or grant against which a judgment or conviction has been rendered more than once within any 3-year period for the same or similar offences, if each judgment or conviction is a cause for debarment, the official responsible for awarding the contract or grant shall document why the prospective awardee is considered presently responsible.

**SEC. 4504. DISCLOSURE IN APPLICATIONS.**

(a) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, Federal regulations shall be amended to require that in applying for any Federal grant or submitting a proposal or bid for any Federal contract a person shall disclose in writing information described in section 2(c).

(b) COVERED CONTRACTS AND GRANTS.—This section shall apply only to contracts and grants in an amount greater than the simplified acquisition threshold, as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 401(11)).

**SEC. 4505. ROLE OF INTERAGENCY COMMITTEE.**

(a) REQUIREMENT.—The Interagency Committee on Debarment and Suspension shall—

(1) resolve issues regarding which of several Federal agencies is the lead agency having responsibility to initiate suspension or debarment proceedings;

(2) coordinate actions among interested agencies with respect to such action;

(3) encourage and assist Federal agencies in entering into cooperative efforts to pool resources and achieve operational efficiencies in the Governmentwide suspension and debarment system;

(4) recommend to the Office of Management and Budget changes to Government suspension and debarment system and its rules, if such recommendations are approved by a majority of the Interagency Committee;

(5) authorize the Office of Management and Budget to issue guidelines that implement those recommendations;

(6) authorize the chair of the Committee to establish subcommittees as appropriate to best enable the Interagency Committee to carry out its functions; and

(7) submit to the Congress an annual report on—

(A) the progress and efforts to improve the suspension and debarment system;

(B) member agencies' active participation in the committee's work; and

(C) a summary of each agency's activities and accomplishments in the Governmentwide debarment system.

(b) DEFINITION.—The term ''Interagency Committee on Debarment and Suspension'' means such committee constituted under sections 4 and 5 and of Executive Order 12549.

**SEC. 4506. AUTHORIZATION OF INDEPENDENT AGENCIES.**

Any agency, commission, or organization of the Federal Government to which Executive Order 12549 does not apply is authorized to participate in the Governmentwide suspension and debarment system and may recognize the suspension or debarment issued by an executive branch agency in its own procurement or assistance activities.

**SEC. 4507. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Administrator of General Services such funds as may be necessary to establish the database described in section 2.

**SEC. 4508. REPORT TO CONGRESS.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Administrator of General Services shall submit to Congress a report.

(b) CONTENTS OF REPORT.—The report shall contain the following:

(1) A list of all databases that include information about Federal contracting and Federal grants.

(2) Recommendations for further legislation or administrative action that the Administrator considers appropriate to create a centralized, comprehensive Federal contracting and Federal grant database.

**SEC. 4509. IMPROVEMENTS TO THE FEDERAL PROCUREMENT DATA SYSTEM.**

(a) ENHANCED TRANSPARENCY ON INTERAGENCY CONTRACTING AND OTHER TRANSACTIONS.—Not later than 12 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall direct appropriate revisions to the Federal Procurement Data System or any successor system to facilitate the collection of complete, timely, and reliable data on interagency contracting actions and on transactions other than contracts, grants, and cooperative agreements issued pursuant to section 2371 of title 10, United States Code, or similar authorities. The Director shall ensure that data, consistent with what is collected for contract actions, is obtained on—

(1) interagency contracting actions, including data at the task or delivery-order level; and

(2) other transactions, including the initial award and any subsequent modifications awarded or orders issued.

(b) AMENDMENT.—Subsection (d) of section 19 of the Office of Federal Procurement Policy Act (41 U.S.C. 417(d)) is amended to read as follows:

''(d) TRANSMISSION AND DATA ENTRY OF INFORMATION.—The head of each executive agency shall ensure the accuracy of the information included in the record established and maintained by such agency under subsection (a) and shall timely transmit such information to the General Services Administration for entry into the Federal Procurement Data System referred to in section 6(d)(4), or any successor system.''.

The Acting CHAIRMAN. Pursuant to House Resolution 1218, the gentleman from California (Mr. WAXMAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California.

□ 1600

Mr. WAXMAN. Mr. Chairman, this Congress, the House and Senate, have passed important Federal contracting reforms, but neither body has assembled them into a comprehensive package. My ''clean contracting'' amendment to the National Defense Authorization Act consolidates these provisions into a single reform measure.

I want to particularly thank Chairman SKELTON for working with me to help bring this amendment before the House today. He has been a tremendous partner in the fight to root out waste, fraud and abuse.

The clean contracting amendment would require agencies to enhance competition in contracting, limit the use of abuse-prone contracts, rebuild the Federal acquisition workforce, strengthen antifraud measures, and increase transparency in Federal contracting.

The provisions of the amendment are based on provisions that have already passed the House or Senate, or are government-wide versions of Defense provisions that passed in last year's DOD authorization. They respond to procurement abuses that the Oversight Committee, the Armed Services Committees, and other committees have identified in hearings and investigative reports.

The egregious procurement practices that have occurred in Iraq and in response to Hurricane Katrina and at the

Department of Homeland Security need to be halted. They may enrich companies like Halliburton and Blackwater, but have squandered billions of dollars that belong to the taxpayer.

This amendment says that Congress is serious about stopping waste, fraud and abuse. One important provision deals directly with no-bid contracts and requires agencies to develop plans to promote competition. This provision is needed because the value of contracts awarded without full and open competition has more than tripled since 2000, rising from $67 billion in 2000 to almost $207 billion in 2006. Full and open competition provides the government with its best guarantee that tax dollars are being spent economically and efficiently.

Another important measure would limit the length of no-bid contracts awarded in emergencies to 9 months. This provision would end the abuses that occurred after Hurricane Katrina when many ''emergency'' contracts were allowed to continue for years.

The amendment would also curb the use of cost-plus contracts, which provide contractors with little incentive to control costs. Spending under this kind of contract grew over 75 percent between 2000 and 2005.

Another important provision would prohibit contractors from charging excessive mark-up charges for work done by subcontractors. This would prevent the infamous ''blue roof'' scandal following Hurricane Katrina where taxpayers paid almost $2,500 for something that actually cost $300.

Other vital provisions of this amendment would provide whistleblower protections to civilian contractor employees, fund increases in the acquisition workforce, and prevent the abuse of interagency contracts, as was the case at Abu Ghraib, where interrogators were hired using an Interior Department contract for information technology.

The amendment also includes three provisions which have recently passed the House under suspension of the rules. One, authored by Representative WELCH, requires mandatory reporting of fraud by contractors. Another, based on the bill by Representative MURPHY, requires the disclosure of CEO salaries if a company makes most of its money from government funds. The third, based on a bill authored by Representative MALONEY, requires the development of a database of suspension and debarment information. I want to commend these Members for their hard work on these issues.

I also want to particularly thank Chairwoman VELÁZQUEZ of the Small Business Committee for working with us to perfect some of the language in this bill.

I urge Members to support the Clean Contracting amendment.

I reserve the balance of my time.

Mr. DAVIS of Virginia. I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Virginia is recognized for 10 minutes.

Mr. DAVIS of Virginia. Mr. Chairman, I rise today to speak on the amendment filed by Chair WAXMAN to the FY09 Defense Authorization Act.

This amendment is an amalgamation of various government contractor-related proposals, many of which are currently working their way through the legislative process. Most of the more than 20 components of this amendment represent attempts to, quote, reform the Federal Government's acquisition system through restrictions and reports geared towards greater regulation and oversight.

More specifically, this amendment would limit the duration of contracts awarded under unusual and compelling conditions, require agencies to develop plans for the use of sole-source contracts, restrict the use of lead system integrators in acquisitions of major systems, restrict the acquisition of commercial services, and disclose the salaries of executives of privately held firms that are receiving government funds.

While I remain skeptical these provisions will do much to address the most serious problems facing our Federal acquisition system today, I very much appreciate that Chairman WAXMAN has worked with me to revise the provisions before bringing them to the floor to help ensure they don't impose undesired and unintended burdens on the acquisition system. In addition, I am pleased that the amendment includes a provision aimed at promoting a stronger and more robust Federal acquisition workforce.

Section 4301 of the amendment creates a government-wide acquisition workforce development fund funded by a percentage of the amount expended by agencies for service contracts to be used for the recruitment, the hiring, the training, and the retraining of our Federal acquisition workforce.

He noted that there are too many cost-plus types of contracts. This contract vehicle is only utilized when the government isn't sure of its requirements. How in the world can you fixed-price something if you don't know what you need and what your final requirements are? Having a better acquisition workforce to better define these requirements and having them in touch with their client I think is the best way to get rid of these cost-plus contracts which the chairman and others have criticized rather than trying to legislate into law limitations.

In fact, if this amendment were only to include the provisions in the acquisition workforce title we would be much better off because I think that does more to address the issues in government contracting and the excesses and the problems than anything else in here.

An endless stream of reports, an endless stream of restrictions and limitations really does very little to help our stressed Federal acquisition workforce cope with the increasingly complex demands of the Federal Government for goods and services.

Other provisions in the amendment, however, cause me more concern. Section 4403 of the amendment would give the Government Accountability Office the unprecedented and the new authority to interview private individuals employed by Federal Government contractors in order to get information during its audits. There are serious issues involved with forcing private citizens to talk to government auditors. What happens if the person doesn't want to talk? Can the GAO use its subpoena power? And who within the GAO would have such authority to order private citizens to talk? A senior GAO official? Any GAO functionary? A mid-level official? This is not a provision which has been discussed or debated in Congress. In my judgment, it is not ready for prime time. I think it has some merit, but I think it's going to need really some additional debate and research before it's implemented into law.

When the chairman intended to include this provision in a bill recently being considered by our committee, he withdrew it when I requested him to do so. I assumed at the time we would discuss and debate it before bringing it to the House floor. I'm disappointed that it has been unilaterally included in the amendment, which would otherwise, I feel, be all right to this authorization bill.

Further, Mr. Chairman, many other concerns that I have with this amendment are the same concerns I expressed last year when the House took up H.R. 1362, the chairman's Accountability in Contracting Act.

The Federal acquisition system has been under considerable stress in recent years because of the extraordinary pressures of a shrinking acquisition workforce combined with an increasing reliance on Federal contractors for major activities such as providing logistical support for our troops in Iraq. This strain has resulted in a series of management problems that have been trumpeted by the press and exploited by opponents of the system. Nevertheless, the systems work pretty well, and the vast majority of government acquisitions have been conducted properly. And in the cases where we have found fraud, the system has uncovered these in many cases, audits have uncovered these, and we've been able to deal with them.

I remain concerned that controls, reports, procedures and restrictions will not go very far in addressing the most serious challenges facing us today. Reverting to the bloated system of the past, weighted down with ''process,'' will not help the Federal Government acquire the best value goods and services the commercial market has to offer and our government so desperately needs and our taxpayers can afford.

As I have said many times before, reverting to the past under the rubric of fraud, waste and abuse and ''cleaning up'' the system may provide flashy

sound bites and play well back home, but it doesn't give us the world-class acquisition systems that Federal taxpayers deserve.

More controls and procedures will not remedy poorly defined requirements or provide us with a sufficient number of Federal acquisition personnel with the right skills to select the best contractor and the best contracting vehicles to get there and manage the subsequent performance of those contracts.

Despite these concerns, I don't intend to ask for a rollcall, but I intend to oppose this amendment. And I hope to be able to work with Chairman WAXMAN and other interested stakeholders on these provisions in conference to try to make sure that we're not imposing unnecessary burdens on our Federal acquisition system.

Mr. HUNTER. Would the gentleman yield?

Mr. DAVIS of Virginia. I would be happy to yield to my friend.

Mr. HUNTER. I thank the gentleman for yielding.

You know, one aspect of this that I thought was troubling also was the fact that private contractors will have to disclose the amounts of money that their particular people make. That's going to go out, presumably, to others; competitors will see that. These aren't publicly held companies. I think that that's an intrusion we don't necessarily need to make.

Mr. DAVIS of Virginia. Let me say to my friend, this was a concern, but in working with Mr. MURPHY, the author of this provision, we feel that in the light that—the sirens will go out, not just for contractors, but for grantees, too, on Federal grants and the like. And it will go out not under the rubric of just contracts, but be available on a Federal database which the Congress approved last year.

So I appreciate Mr. MURPHY working with us on that. We're, at this point, comfortable with that provision, having massaged it through the committee process.

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

Mr. WAXMAN. Mr. Chairman, I do want to express my appreciation to Ranking Member DAVIS for the hard work and contribution; he helped us in fashioning so much of this legislation.

At this point, I yield 1½ minutes to the gentleman from Connecticut, who is an author of an important provision in this bill and is a very valued member of our committee.

Mr. MURPHY of Connecticut. I would like to thank Chairman WAXMAN for putting this very valuable amendment before us today. We've spent an awful lot of time on the Government Oversight Committee looking into the contracting practice of the Federal Government. I think this goes a very long way towards safeguarding our taxpayer dollars, and also shining some transparency on it, which is the piece of the amendment that I would like to speak on today.

This amendment includes legislation that passed the House on voice vote several weeks ago, the Government Funding Transparency Act. The act requires that companies that make almost every penny of their revenue from the Federal Government, essentially quasi-public agencies, requires them to disclose to the American public the amount of profit that they're taking off of those contracts. These companies making over 80 percent of their money shouldn't be allowed to hide this type of financial data from the American taxpayers.

I would like to thank Ranking Member DAVIS for working through this bill as it moved through the committee process. This really has moved from a contracting bill to a disclosure bill, one that I think is going to give the American public and this Congress the access to the data that they should have when we are awarding large contracts to essentially government agencies that don't have the requirements that other agencies and public vendors do.

I would like to thank Chairman SKELTON as well for working through this amendment as we brought it forth today. I support its passage and the underlying legislation.

Mr. DAVIS of Virginia. Let me just say to my friends, if we really want to reform the acquisition system, the most important thing we can do is, first of all, start with a better job of defining our requirements on these particular vehicles and then recruiting and retaining acquisition professionals, the best and the brightest we can find. And when we do that, that means we have to pay them appropriately, we have to train them appropriately, we have to give them the appropriate incentives and bonuses. Think of a multibillion-dollar acquisition that comes in on time and under budget. That is worth its weight in gold. We have had so many of these vehicles that have gone sideways on us and end up costing us billions of dollars. It is better to spend a little money up front training the right people to oversee these contracts, define the requirements along the way. This amendment does do something in that regard. I think we need to continue to work in that direction.

I look forward to working with my friends on other amendments as we can strengthen the acquisition system.

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

Mr. WAXMAN. Mr. Chairman, this amendment, which consolidates a number of other provisions, has within it a provision that the House also passed on the suspension calendar authored by the gentleman from Vermont, Congressman WELCH. I yield 1½ minutes to him at this point.

Mr. WELCH of Vermont. I want to thank Chairman SKELTON for his leadership, Chairman WAXMAN, Mr. HUNTER and Mr. DAVIS.

I have been listening to Mr. DAVIS, and he makes a good point; you have to, when you're spending $1 trillion on a war—and we're pushing that—have a good acquisition team. But that really begs the question, we have to have oversight. And there has been documented an astonishing amount of waste, fraud and absolute rip-off in this expenditure of close to $1 trillion. And that does require some simple reporting requirements.

Mr. MURPHY's amendment, where private companies that go into contracts from $700,000, and then when the war starts over the next 4 years to $1 billion, that 10 percent cut for the owner of that company, or the owners, the public has a right to know. Sunlight is going to put some limits on how much profit is reasonable when our soldiers are working so hard for so little.

Secondly, when we have no-bid contracts—and these have proliferated so that they are about over $1 trillion—and the companies that have those contracts become aware of fraud, why is it not plain common sense that that company would have the obligation immediately to report to the American government their knowledge of fraud so that we can save taxpayer dollars, particularly when these involve national security contracts, oftentimes with things that are going to protect our troops? We owe them no less and we owe our taxpayers no less. So I thank the gentlemen for the work that they've done to restore fiscal responsibility.

□ 1615

Mr. WAXMAN. Mr. Chairman, I would like to yield 1½ minutes to a very valuable member of our Oversight Committee who has been a watchdog to make sure that we are not wasting taxpayers' dollars, the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Chairman, at its simplest level, the House Armed Services Committee is the military's best friend, the best friend to the soldier, the sailor, the airman, and the marine. And under the leadership of Chairman SKELTON and Ranking Member HUNTER, we are demonstrating this once again with this bill.

The House on Oversight and Government Reform Committee, Mr. WAXMAN's committee, is the taxpayer's best friend. And it's very important that these committees work together, as they are doing today, to make government work both for the taxpayer and for the military. And that's what these clean contracting amendments do.

It's an amazing group of amendments to try to minimize, for example, sole source contracts. Why should the government have to add all this business to one company without competitive bidding unless it's a national emergency? This amendment takes care of that why should we have cost-plus contracts? Those guarantee a profit whether it's deserved or not. We try to minimize those things.

This is an excellent example of cooperative work between committees,

really forgetting jurisdictional lines, and making government work for the people back home.

I'd also like to thank Mr. WAXMAN in particular because he pointed out something that even the excellent staff of the House could not have been able to see so far, which is workmen's compensation for defense contractors, an issue that we had not delved into. But just last week, in an excellent set of hearings that Chairman WAXMAN called, we were able to produce legislative language that, thankfully, the House has accepted and to get this reform underway already. So in just 1 week's time, we are solving this problem for the taxpayer.

I thank the gentleman.

Mr. WAXMAN. Mr. Chairman, I yield the balance of my time to my very good friend and respected leader, the chairman of the Committee on Armed Services (Mr. SKELTON).

Mr. SKELTON. I thank the gentleman for yielding. I also wish to compliment him on this amendment.

Mr. Chairman, there was a lot of hard work that went into this, and what it would do is add the Clean Contracting Act of 2008 to national security and defense. It compiles provisions that have already passed the House or would extend acquisition reforms passed for the Department of Defense in prior authorization bills in identical form. It also adds a couple of new measures.

This Waxman amendment complements last year's bill in which we extended several of the reforms beyond the Department of Defense, and it also included several bills that have already passed, such as the Contractors and Federal Spending Accountability Act offered by Representative MALONEY, the Close the Contractor Fraud Loophole Act offered by Mr. WELCH, and the Government Contractor Accountability Act offered by Mr. CHRIS MURPHY.

There's a lot of hard work that goes into this. And we are always going to have difficulties in the acquisition process and the contracting process. But this is a major step in that direction, and I favor it.

Mrs. MALONEY of New York. Mr. Chairman, I rise today in strong support of the amendment offered by the distinguished chairman of the Oversight and Government Reform Committee, Representative WAXMAN, that would make important reforms to the contracting process.

Particularly, I want to note my support for provisions in the amendment based on my legislation which passed the House last month, H.R. 3033, the "Contractors and Federal Spending Accountability Act." That bill and this amendment would fortify the current federal procurement system by establishing a centralized and comprehensive database on actions taken against federal contractors and assistance participants. It requires the contracting officer to document why a prospective awardee is deemed responsible if that awardee has two or more offenses which would be cause for debarment within a 3-year period. Additionally, it improves and clarifies the role of the Interagency Committee on Debarments and Suspension, and requires the Administrator of General Services to report to Congress within 180 days with recommendations for further action to create the database.

Currently, federal agency officials lack the information that they need to protect our business interests and taxpayers' dollars. This amendment will make it easier for these individuals to prevent those who repeatedly violate federal law from receiving millions of dollars from the federal government.

As a New York City Councilwoman, I successfully led an effort to implement a similar system. This system has aided the City of New York tremendously, and it has helped to prevent habitual bad actors and felons from being awarded city contracts.

The United States is the largest purchaser of goods and services in the world spending more than $419 billion on procurement awards in FY2006 and $440 billion on grants in FY2005. It is Congress's responsibility to ensure that the taxpayers' dollars are used wisely and not wasted by some contractors who are more interested in lining their pockets with profits than providing the American people with the goods and services they are paying for.

I also want to acknowledge Representative MARK UDALL for his supportive efforts to improve the federal contracting system, and I urge my colleagues to support this amendment.

The Acting CHAIRMAN (Mr. POMEROY). The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The amendment was agreed to.

AMENDMENT NO. 26 OFFERED BY MS. LEE

The Acting CHAIRMAN. It is now in order to consider amendment No. 26 printed in House Report 110–666.

Ms. LEE. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Ms. LEE:

At the end of subtitle B of title XII of the bill, add the following new section:

**SEC. 12xx. LIMITATION ON CERTAIN STATUS OF FORCES AGREEMENTS BETWEEN THE UNITED STATES AND IRAQ.**

No provision of any agreement between the United States and Iraq described in section 1212 (a)(1)(A)(iv) shall be in force with respect to the United States unless the agreement—

(1) is in the form of a treaty requiring the advice and consent of the Senate (or is intended to take that form in the case of an agreement under negotiation); or

(2) is specifically authorized by an Act of Congress enacted after the date of the enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 1218, the gentlewoman from California (Ms. LEE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from California.

Ms. LEE. Mr. Chairman, I yield myself such time as I may consume.

First let me thank Chairman SKELTON and Ranking Member HUNTER for their work on this bill and also for their devotion to the men and women of our Armed Forces.

Thank you very much on behalf of my dad, retired Lieutenant Colonel, recently deceased, Garvin Tutt. Thank you, Mr. SKELTON; thank you, Mr. HUNTER.

Mr. Chairman, my amendment is simple and straightforward. It provides that no provision contained in any Status of Forces Agreement, or SOFA, negotiated between the President and the Government of Iraq which commits the United States to the defense and security of Iraq from internal and external threats is valid unless this agreement has been authorized and approved by Congress.

This may sound complicated but it really is not. The issue is really simple. Should President Bush, this President, or any President be allowed to obligate our troops to a long-term commitment to spend resources and provide troops to defend Iraq against its enemies internal or external without congressional review? The longstanding answer and constitutional answer to this question is "no." So, Mr. Chairman, this amendment should not be controversial.

And why is it needed? Because in November, 2007, President Bush and Iraqi Prime Minister Maliki signed the Declaration of Principles for Friendship and Cooperation, which included an unprecedented commitment to defend Iraq against internal and external threats. Frankly, this is not only unprecedented, but it is really insulting when one considers that the agreement does require the review and approval of the Iraqi Parliament but not our own Congress. That doesn't make any sense. If prior review and approval is good enough for the Iraqi Parliament, it is good enough for the United States Congress. In fact, it is essential for the United States Congress to give their approval.

I want to take a moment to address the position of the administration and some of my Republican colleagues who would argue that the agreement is nothing more than a garden variety. Status of Forces Agreements, for the most part, don't require congressional involvement or approval. But the reality is that this Declaration of Principles goes far beyond what is typically covered in the Status of Forces Agreement, or SOFA. The reality is that routine SOFAs do not include any guarantee to defend a host country against external or internal threats. That just has not been part of prior SOFA agreements.

I cannot underscore just how serious this commitment is. An agreement of this kind to commit American troops to the defense of security of another country is not routine or typical or minor. It is a major commitment that must have the support of the American people, and that popular support will only be reflected through the Congress of the United States, the people's House.

Mr. Chairman, if a decision is made about keeping troops in Iraq indefinitely, then it is the Congress that

should have a say. My amendment does that.

I want to be clear, though, that this amendment is not about redeploying our troops from Iraq, a position that I strongly support, nor is it about timelines or reconstruction or oil or the various other debates raging around our occupation of Iraq. We can't undo the suffering, the death, the horrible injuries, the deep psychological scars, or the millions of lives that are forever altered, and we can't erase the misrepresentations made, the mistakes made, or the damage done. But we can, however, prevent future mistakes. And it would be a disastrous mistake to let the current declaration move forward without congressional debate and approval.

So this amendment is about the future. Do we want the next President and Congress to inherit a situation where our troops are committed to fight Iraqi civil wars and any entity the Iraqis deem a threat? Do we really want that? Do we want to do that without even having debated it or allowing congressional review? Do we really want that?

This is about standing up for Congress and the Constitution. Again, this amendment is responsible, practical, and necessary. For these reasons, I urge all Members to support my amendment.

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

Mr. HUNTER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from California is recognized for 10 minutes.

Mr. HUNTER. Mr. Chairman, I reluctantly rise to oppose this amendment because of my great respect for the gentlewoman. But this Status of Forces Agreement is something that we've done now in over 80-some countries. And it's not a guarantee of security. It's not a guarantee of defense. It is not and should not be considered as a treaty. It is simply for the protection of American soldiers and American civilian personnel.

It sets out, for example, if you are sued, if you're charged with a criminal action, there has to be an agreement between the countries as to how people are treated, that is, how American personnel are treated, and under the agreement that Iraq has made with the United States.

Now, Secretary Gates has testified to us in the Armed Services Committee, and he has been asked about the SOFA, and he has said there are no security guarantees in this SOFA. We're going to have the same team that has done SOFAs, these Status of Forces Agreements, in many other countries, moving in to do the same Status of Forces Agreement that will go over the same types of things. And, again, this does not rise to the level of a treaty because this is not going to be an agreement with respect to security guarantees for Iraq. It will contain no security commitment, and it will not obligate force structure or troop strength or assure any other security guarantees.

So, Mr. Chairman, this is not a treaty. And I appreciate the gentlewoman's statements and her intent, and there may be at some point an agreement between Iraq and the United States that will be a treaty with respect to security commitments. This doesn't do it. What this does is protect American personnel. We need it and we need to negotiate it. We need to get it done. It's not a treaty, and we should not make it subject to ratification by Congress.

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

Ms. LEE. Mr. Chairman, I would like to yield 1 minute to the chairman of the committee, the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, this is really a reflection of constitutionality. This refers to any agreement that requires the United States to take action on behalf of an ally in the face of an attack. This is one that is an agreement that is a security agreement, and it requires either a treaty ratified by the United States Senate or a provision passed by the entire Congress of the United States.

It's unclear, for instance, that if the Iraqis could repel any external invasion or address a serious internal threat without America that the United States could avoid being involved against its will in such a situation. Quite honestly, it is a requirement that the Constitution be followed. A security agreement, by the way, is different from a Status of Forces Agreement. I favor the amendment.

Mr. HUNTER. Mr. Chairman, once again, these Status of Forces Agreements, which are pretty run of the mill, do not manifest security commitments by the United States to protect the countries that they are made with. They talk about the treatment and describe the treatment of Americans with respect to getting licenses, licensing their vehicles, how they're going to be treated in cases of civil or criminal actions. Basically how the American who is in that particular foreign country, and again we have got 80 of them that we have done, how they are going to be treated by that host country.

Now, they are not security commitments, and if you have something that does, in fact, commit the United States to a security agreement with another country, and in this case Iraq, I have no dispute with my colleagues, that at that point you have a treaty, and a treaty, because it manifests commitments, has to be ratified.

But I don't understand why we are saying that the Status of Forces Agreement, which is going to talk about how our troops are treated in the same way that we talk about how American military personnel who are in Germany or Japan or 80 other countries are treated, how that now becomes something special because it's Iraq and, in the case of Iraq alone, we have to have a ratification by Congress.

□ 1630

I would reserve the balance of my time.

Ms. LEE. Mr. Chairman, how much time do I have left?

The Acting CHAIRMAN. The gentlewoman has 4½ minutes remaining.

Ms. LEE. I would yield 1 minute to the gentlelady from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, as we speak, the administration is negotiating a strategic framework agreement with Iraq that goes well beyond the typical Status of Forces Agreement. Contrary to what my colleague, Mr. HUNTER says, from California, essentially it does amount to a treaty. Read the words of the Declaration of Principles. It will need to be ratified by the Iraqi Parliament and therefore it must be ratified by the United States Congress as well. This is the issue that goes to the heart of our constitutional duties as a Congress and the power to declare war, with which we have been entrusted as representatives.

After voting against this war, I have supported the goal of responsibly redeploying our troops for over 2 years, and after President Bush and Prime Minister al-Maliki signed the Declaration of Principles last year. It is a document that outlines unprecedented security commitments and assurances to Iraq from the United States. If in fact it is just a Status of Forces Agreement as usual, then the administration should repudiate this Declaration of Principles and start with a genuine Status of Forces Agreement.

I introduced the Iraq Strategic Agreement Act. I compliment my colleague, Ms. LEE, and support her amendment.

Mr. HUNTER. Once again, the gentlelady talked about a strategic framework agreement. That does manifest security commitments, and that does have to be ratified. But that is not the Status of Forces Agreement. The Status of Forces Agreement is simply about the treatment of American military personnel in that particular place. We are talking about two different things; one that has to be ratified and the other that doesn't. And I have heard no good argument as to why, of the 80 Status of Forces Agreements that we have around the world, why this one has to be ratified by Congress and none of the others have to be.

I reserve the balance of my time.

Ms. LEE. I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. I will give you a reason why we ought to have this amendment. We know what happens when we give this President a blank check. It always goes badly. We get a

banner, Mission Accomplished, and he gets to continue a failed war that has now claimed the U.S. economy as its latest casualty. That is why I urge my colleagues to approve this Lee amendment.

This lame duck President must not be able to indenture the next President to carry on a disastrous war of security. This is a lame duck administration trying to rewrite history, and they will tie the hands of the Nation into a knot in the process if we let them. The next President and the next Congress are the only ones who should determine the future policy in Iraq. This amendment ensures this will happen.

The President has had a blank check since 2001, and we see where we are. This amendment brings some balance to the process. It's time to close the blank check account for a lame duck President. We ought to approve the Lee amendment and preserve our chance in the future to get out of Iraq.

Ms. LEE. I would like to yield 1 minute to the gentlelady from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I rise today to support Congresswoman BARBARA LEE's amendment. In fact, Mr. Chairman, if it were not for abusive power grabs, we would not need this amendment today. As Chairman SKELTON just said to us, this amendment actually strengthens a right guaranteed to the Congress by the Constitution. With Congresswoman LEE's amendment, we simply affirm that any major international agreement signed by the representatives of the United States, the U.S. Government, it must be approved by the Congress.

Whether you call it a treaty, whether you call it a Declaration of Principles, this Congress will fulfill our constitutional duty today because every one of us, every Member of Congress takes an oath to defend the Constitution of the United States of America, and today we will do just that.

So, again, I thank Congresswoman LEE, and I urge support of this amendment.

Mr. HUNTER. How much time do we have left, Mr. Chairman?

The Acting CHAIRMAN. The gentleman from California has 6 minutes remaining. The gentlewoman from California has 1½ minutes remaining.

Mr. HUNTER. Mr. Chairman, I would just say to my colleagues, including the gentleman from Washington who spoke I think somewhat disparagingly of the President, this is part of the duties of an administration anywhere where you have American troops. You lay down rules of how they are going to be treated with respect to civil actions, criminal actions, licensing of vehicles, payment of taxes, all the things that affect a person who is now physically residing in that foreign country, whether it's an American civilian or a military guy who's stationed there. It's a necessary thing.

The idea that we are going to elevate this thing, which has been a fairly ministerial thing, to a treaty on the basis that the people who are speaking don't like the President doesn't make any sense. You know, when the Secretary of Defense comes in, testifies to our committee that there will be no commitments manifest in this particular SOFA with respect to security, he testifies to us to that effect, the idea that we say we are not going to believe him, and certain members of the other side don't like the President so they come down to say anything he does now has to be ratified by Congress, I think that disparages the process, Mr. Chairman.

We have got a fairly run-of-the-mill ministerial thing that we need to do and, once again, I say to my colleagues, this protects American personnel. The same team that has negotiated this with presumably dozens of countries and gone over the same ministerial stuff with respect to how people are treated in that country, will be talking to the Iraqi leadership and making that same negotiation on those same points.

So the idea that we now elevate this to a treaty; if a treaty is coming with this strategic framework, that does have to be ratified by Congress, and should be ratified by Congress. But let's not mix the two up. Let's protect our personnel and then let's move to this ratification or this decision of what any security commitments might be.

I would reserve the balance of my time.

Ms. LEE. I would like to yield now 1 minute to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH of Vermont. Mr. Chairman, I thank the gentlewoman from California. We have two issues here. The first is whether this body, the Congress of the United States, is going to exercise its responsibility or abnegate its responsibility to the President of the United States.

We have a bit of a factual dispute about the nature of this agreement. The chairman of our committee, a distinguished veteran, has made it clear that this can be in the nature of a treaty. That is what it applies to. It could implicate us in the second issue, and that is where the United States should be providing security when essentially you have a civil war.

The agreements and Status of Force Agreements that Mr. HUNTER has described have been with countries that have stability. This is a country that has Shia fighting Shia, Shia fighting Sunni, the Kurds sitting on the side, waiting. The United States should not be providing security guarantees without the vote of Congress in that circumstance.

Ms. LEE. Mr. Chairman, how much time do I have remaining?

The Acting CHAIRMAN. The gentlewoman has 30 seconds remaining.

Ms. LEE. Mr. Chairman, I'd like to yield the remaining time to close to the chairman of the Armed Services Committee, the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, this is first-year law school discussion. If you read the amendment offered by the gentlelady, it makes reference to 1212(a)(1)(a)(4). It applies only to this. I read that section: ''Any security agreement, arrangement, or assurance that obligates the United States to respond to internal or external threats against Iraq.'' That doesn't say a thing, not a blooming thing about Status of Forces Agreement. So that is what we are talking about. That is why a treaty is required or a consent of Congress.

Mr. HUNTER. Just one other point, and that is in the U.N. Security Council Resolution, under which our troops operate now, which provides for how they are treated in Iraq, expires in December. That is why we need to have a Status of Forces Agreement. If we don't have, and we now elevate this to a treaty, and Congress doesn't act on the treaty, they will lose their protection when the United Nations provision expires.

It doesn't make sense to put this onus on them, that somehow we are going to raise this thing to a treaty level and Congress, by golly, is going to have to now ratify it before we can decide how an E–5, a sergeant with a couple of stripes, living in Baghdad, how he is going to be treated with respect to the laws of that country. It doesn't make a lot of sense.

I think we ought to leave this thing alone. When we go to any treaties that actually manifest security commitments by the United States, certainly that has to be then ratified by Congress. This isn't one of them. It will be the 81st SOFA that we have had without requiring Congress to ratify it.

Mr. BERMAN. Mr. Chairman, I rise in strong support of this amendment by my colleague from the Foreign Affairs Committee.

Mr. Chairman, this is a simple amendment. It provides that any security commitment, arrangement, or assurance that obligates the United States to respond to internal or external threats against Iraq must be approved by an act of Congress or by a treaty that receives advice and consent.

Mr. Chairman, the United States has many friends around the world, including in the Middle East, with whom we have non-legally binding arrangement about security. However, legally binding security commitments to use the Armed Forces of the United States have only been entered into with the approval of Congress. U.S. security commitments to NATO and Japan, for example, have been made pursuant to a treaty subject to advice and consent with the Senate.

I believe that past precedent should be our guide as to how to deal with any legally binding obligation of the United States that would commit both the current President and all of his successors to defending Iraq. If the President believes this is wise for the country, he should not do it alone; it should only be taken with congressional approval.

Mr. Chairman, this is not an esoteric or hypothetical situation. This past weekend I was in Baghdad with Speaker PELOSI's delegation. It's quite clear from our discussions there that the government of Iraq at the highest level expects that any strategic framework or other

agreement between the United States and Iraq will include a legally binding security commitment that would require the United States to respond to threats against Iraq.

This amendment ensures congressional approval and, implicitly, congressional oversight of any proposed legally binding commitment to Iraq's security. I would hope that all my colleagues, irrespective of their political affiliation and their views about the conflict in Iraq, would agree that Congress should not be sidelined when it comes to what could be a millennial commitment to defend a country in the heart of one of the hottest regions on the planet.

I strongly support the amendment.

I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. LEE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 50 OFFERED BY MR. ISRAEL

The Acting CHAIRMAN. It is now in order to consider amendment No. 50 printed in House Report 110–666.

Mr. ISRAEL. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 50 offered by Mr. ISRAEL:

At the end of title XII, add the following new section:

**SEC. 12___. EMPLOYMENT FOR RESETTLED IRAQIS.**

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly establish and operate a temporary program to offer employment as translators, interpreters, or cultural awareness instructors to individuals described in subsection (b).

(b) ELIGIBILITY.—Individuals referred to in subsection (a) are individuals, in the determination of the Secretary of State, in coordination with the Secretary of Defense and the Secretary of Homeland Security, who—

(1) are Iraqi nationals lawfully present in the United States; and

(2) worked, for at least 12 months since 2003, as translators in the Republic of Iraq for the United States Armed Forces or other agency of the United States Government.

(c) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), the program established under subsection (a) shall be funded from the annual general operating budget of the Department of Defense.

(2) EXCEPTION.—The Secretary of State shall reimburse the Department of Defense for any costs associated with individuals described in subsection (b) whose work was for the Department of State.

(d) RULE OF CONSTRUCTION REGARDING ACCESS TO CLASSIFIED INFORMATION.—Nothing in this section may be construed as affecting in any manner practices and procedures regarding the handling of or access to classified information.

(e) INFORMATION SHARING.—The Secretary of Defense and the Secretary of State shall work with the Secretary of Homeland Security, the Office of Refugee Resettlement of the Department of Health and Human Services, and nongovernmental organizations to ensure that Iraqis resettled in the United States are informed of the program established under subsection (a).

(f) REGULATIONS.—The Secretary of Defense, in coordination with the Secretary of State, shall prescribe such regulations as are necessary to carry out the program established under subsection (a), including establishing pay scales and hiring procedures, and determining the number of positions required to be filled.

(g) TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the program established under subsection (a) shall terminate on December 31, 2014.

(2) EARLIER TERMINATION.—If the Secretary of Defense, in coordination with the Secretary of State, determines that the program established under subsection (a) should terminate before the date specified in paragraph (1), the Secretaries may terminate the program if the Secretaries notify Congress in writing of such termination at least 180 days before such termination.

The Acting CHAIRMAN. Pursuant to House Resolution 1218, the gentleman from New York (Mr. ISRAEL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. ISRAEL. Mr. Chairman, this amendment solves a critical deficiency in our warfighting and our peacekeeping capabilities by strengthening the Arab language capabilities in the Department of Defense and Department of State. There are literally hundreds of Iraqis in the United States who supported our military units as translators in Iraq. They risked their lives, they risked their families' lives. They went on patrol in very dangerous areas, told our servicemembers what the enemy was saying, what was being said.

Then they came here to escape persecution, and when they got here, they wanted to continue providing those critical linguistic abilities and they were told there was no place for them to work. Many of them today are working in Safeways and working in Home Depots and working in restaurants, instead of providing the linguistic capabilities that we desperately need in the military theater.

Study after study after study, including the Quadrennial Defense Review, points to the critical deficiency we have in understanding the cultures and languages that we are fighting in. Our Nation now has hundreds of people who grew up in those cultures, speak those languages, pass background checks, risk their lives, and what do we do, even though we need their skills? We let them bag groceries at a Safeway. It doesn't make any sense.

This amendment would help solve that problem by instructing DOD and the Department of State to create a temporary program that would offer employment as translators, interpreters, or culture awareness instructors in Iraq, who meet certain rigid criteria. One, they must be here legally. Two, they must have worked for at least the last 12 months as translators in Iraq since 2003 for our troops or for another U.S. Government agency.

This amendment is endorsed by the Episcopal Church, Veterans for Common Sense, the International Rescue Committee, Church World Service, which works very hard on it, and many additional groups.

□ 1645

I would like to read into the RECORD, Mr. Chairman, a statement by Major Andrew Morton, U.S. Army Active Service, a former Director of Strategic Communications for Multinational Forces in Iraq, where he says, ''Representative's Israel's proposed amendment is a critically needed program to assist these many Iraqis who have put themselves and their families in harm's way to assist our joint operations in Iraq.''

This is a very important amendment in helping those who were protecting us, and I urge its passage.

I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. HUNTER. Mr. Chairman, first let me express my great respect for the gentleman who is offering this amendment. He does wonderful work on the committee and truly has a heart for those who have been impacted by the operations in Afghanistan and Iraq.

On that point, I would say I remember the time we were in Fallujah and a young Marine captain came up to us with some language he had written. In fact, his name was Kevin Coughlin. He thinks he has traded up. He moved on to the FBI from the committee staff. But we were so impressed with the language he had written to protect translators that we brought him back with us and made him part of the HASC staff. He did leave us a ''Dear John'' note after he left to go to work for the FBI, but a great young Marine captain. And he felt the same way we had, which is that our translators needed to be protected.

We have a program which protects them. Now, the question here is, are we going to mandate employment for them? That is the way I read this particular legislation. I don't think that is the right way to go.

I think that, first, a lot of these folks have got great initiative. They are happy to be in a free country. If we have a program to help make sure they know of all the job opportunities that are available and perhaps help them with language, make sure that they are connected with folks that are recruiting our people who need those language talents, I think that is great.

But I think the idea, at least the way I read this thing, that there is mandated employment, I think that is

going a step far. I think it is something we haven't done for other folks. In this case we have taken people and their families who helped the United States and we have relocated them in the greatest country in the world with the freedom to travel all these new roads that they have never been able to travel before.

But I think, for one thing, that the idea of guaranteed employment, if they have got a lot of spirit and a lot of initiative, that is the first way to kill spirit and initiative, is to give a guaranteed lifetime job to someone. I think we ought to take these folks who have this great energy, they have obviously displayed a loyalty to the United States, help them hook up with these thousands and tens of thousands of employers, including those in the government, but not have a program that guarantees employment.

So I thank the gentleman for the spirit of his amendment.

I would reserve the balance of my time.

Mr. ISRAEL. I thank the gentleman. I would assure him that this in no way mandates a program. It asks the Secretary of Defense and the Secretary of State to create one, but it is totally at their discretion and provides ultimate flexibility for them.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Vermont (Mr. WELCH).

Mr. WELCH of Vermont. I thank the gentleman from New York.

The Israel amendment recognizes that we have a responsibility to the Iraqis who by helping us have put a bull's eye on their back. The interpreters every single day are in immense jeopardy. They have many people who, if their identity is determined, will kill them.

But as aggressive as Mr. ISRAEL is in promoting this amendment, he is really the second-most aggressive advocate. The most aggressive are our soldiers, who have benefited day in and day out from the services of people they have come to call their brothers. They want us to stand up for the people who have stood up for them.

And do they need a job when they come here? Of course they do. This is about doing work so that they can maintain body and soul. It is also about them having work that can continue to help our men and women in uniform.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Chairman, I too want to salute the gentleman from New York and his work on the Armed Forces Committee, but I must respectfully disagree with this amendment and what I believe is the philosophy behind it.

We need to be encouraging Iraqis to stay in Iraq. Iraq is improving. The situation there is expanding. They need to rebuild Iraq. They need to have a better economy. And by encouraging the best and the brightest to come to this country, we are doing a disservice. We should not be encouraging the Iraqi translators to abandon their country, to leave their country. We should be promoting their staying in Iraq.

If we have jobs programs, I suggest that first, with the mandatory language that exists in this amendment, that we focus on jobs for U.S. citizens. Refugees get food stamps, SSI and Medicaid. That is often more than U.S. citizens get. We should be rolling out the red carpet for our citizens first, instead of adopting programs like this.

Mr. ISRAEL. Mr. Chairman, I would just point out to my good friend from Virginia that these translators did risk their lives to help our troops in Iraq. If they stayed in Iraq, they would in all likelihood be killed. The reason they come here is to escape assassination.

With that, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON), the distinguished chairman of the committee.

Mr. SKELTON. Mr. Chairman, I go back to the basics, and that is, read the amendment before you. This amendment asks that the Secretaries jointly establish and operate a temporary program to offer employment as translators, interpreters, et cetera. This is not a mandate in the words at all that are before us. Under this amendment, these Iraqis must have assisted our country in Iraq for at least a year and be here in the United States legally.

As a practical matter, these are the Iraqis who have been brought to our country under the legislation offered by my good friend DUNCAN HUNTER that was included in the National Defense Authorization Act of 2 years ago, which is good language. We are also not talking about a large number of people. We are talking about 760 people who have been brought to the United States.

I think we can do something for them. I think a careful reading of the amendment will solve a lot of discussion today. Mr. ISRAEL is right.

Mr. HUNTER. Mr. Chairman, I appreciate the remarks of both Mr. ISRAEL and the ranking member. I am just looking at the language, and it says ''shall offer employment.'' So it clearly says, if I was going to read that as an agency head, I would say that means I must hire these folks.

Again, this committee worked to make sure that they got over here, that they were protected and that their families were protected, and I am glad we did that. I will offer my small offices. We have had jobs fairs at Bethesda and Walter Reed for our returning wounded warriors where we bring people from industry and we bring people from the agencies and we try to get them together with our wounded vets who are returning and help them to match up and get jobs. I would be happy to do the same thing with respect to these interpreters. And, indeed, interpreters have special skills. This should be something that can be done.

The only thing I would object to is the mandated job. We don't offer that to our veterans. I just think that is a step a little bit too far. But I would be happy to work with the gentleman in terms of helping them to access jobs.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ISRAEL).

The amendment was agreed to.

The Acting CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. BRALEY) assumed the chair.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 2419), ''An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes'', returned by the President of the United States with his objections, to the House, in which it originated, and passed by the House on reconsideration of the same, it was

*Resolved*, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The SPEAKER pro tempore. The Committee will resume its sitting.

***NOTICE***

***Incomplete record of House proceedings.***

***Today's House proceedings will be continued in the next issue of the Record.***