military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. 2800. RENAMING OF DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990 AND DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.


(b) RENAMING OF COMMISSION.—(1) Section 2803(c) of that Act is amended by striking “ ‘Defense Base Closure and Realignment Commission’ ” and inserting “ ‘Defense Base Review Commission’ ”.

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

SEC. 3159. CLARIFICATION OF CALCULATION OF ANNUAL INFLATION ADJUSTMENT FOR ECONOMIC ASSISTANCE PAYMENTS FOR THE WASTE ISOLATION PILOT PLANT.

(a) CLARIFICATION.—Section 15(c) of the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579; 106 Stat. 2491) is amended—

(1) in paragraph (1)—

(A) in the matter before subparagraph (A), by inserting “subsection (a)” in place of “such subsection;”;

(B) in subparagraph (B), by inserting “of, for such fiscal year”;

and

(2) in paragraph (2), by striking “the fiscal year prior to the first fiscal year to which subsection (a) applies” and inserting “the fiscal year preceding such fiscal year”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1998, and shall apply with respect to fiscal years beginning on or after that date.

(c) AVAILABILITY OF ADDITIONAL AMOUNTS FOR PAYMENT UNDER RETROACTIVE AMENDMENT.—The Secretary of Energy shall determine the amount that would have been available for economic assistance payments under section 15 of the Waste Isolation Pilot Plant Land Withdrawal Act of fiscal years 1999, 2000, and 2001 if the amendments made by subsection (a) had taken effect on October 1, 1998.

SA 1676. Mr. NELSON of Nebraska (for himself, Mr. BUNNING, Mr. CLELAND, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 2808. RENAMING OF DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990 AND DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.


(b) RENAMING OF COMMISSION.—(1) Section 2803(c) of that Act is amended by striking “ ‘Defense Base Closure and Realignment Commission’ ” and inserting “ ‘Defense Base Review Commission’ ”.

United States to the Defense Base Closure and Realignment Commission shall be deemed to be a reference to the Defense Base Review Commission.

SEC. 1124. AUTHORITY TO EXEMPT CERTAIN HEALTH CARE PROFESSIONALS FROM EXAMINATION FOR APPOINTMENT IN THE COMPETITIVE CIVIL SERVICE.

(a) AUTHORITY TO EXEMPT.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1599d. Appointment in competitive civil service of certain health care professionals: exemption from examination."

"(a) AUTHORITY TO EXEMPT.—The Secretary of Defense may appoint in the competitive civil service, without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303, 3321, and 3328 of such title) an individual who has a recognized degree or certificate from an accredited institution in a covered health-care profession or occupation.

"(b) COVERED HEALTH-CARE PROFESSION OR OCCUPATION.—For purposes of subsection (a), a covered health-care profession or occupation is any of the following:

1. Physician.
2. Dentist.
3. Podiatrist.
4. Optometrist.
5. Pharmacist.
7. Physician assistant.
8. Audiologist.
10. Dental hygienist.
11. (c) PREFERENCES IN HIRING.—In using the authority provided by this section, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

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

"1599d. Appointment in competitive civil service of certain health care professionals: exemption from examination."

SA 1677. Mr. WARNER (for Mr. COLLINS (for himself, Ms. LANDRIEU, and Mr. ALLARD)) proposed an amendment to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title VII, add the following:

"SEC. 718. MODIFICATION OF PROHIBITION ON REQUIREMENT OF NONAVAILABILITY STATEMENT OR PREAUTHORIZATION.

(a) CLARIFICATION OF COVERED BENEFICIARY.—Subsection (a) of section 721 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (enacted in Public Law 106-398; 114 Stat. 1654A-164) is amended by striking "covered beneficiary under chapter 55 of title 10, United States Code, who is enrolled in TRICARE Standard" and inserting "covered beneficiary under TRICARE Standard pursuant to chapter 55 of title 10, United States Code."

(b) REPEAL OF REQUIREMENT FOR NOTIFICATION REGARDING HEALTH CARE RECEIVED FROM ANOTHER SOURCE.—Subsection (b) of such section is repealed.

(c) PREFERENCES IN HIRING.—In using the authority under this subsection to grant a waiver under this section, the Secretary may take into account any of the following:

1. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
2. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
3. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
4. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
5. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
6. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
7. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
8. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
9. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.
10. Whether the covered beneficiary is being treated at the military medical treatment facility or facilities.

(d) DELAY OF EFFECTIVE DATE.—Subsection (d) of such section is amended—

1. by striking "take effect on October 1, 2001 and inserting "take effect on October 1, 2001;"
2. by striking "(4)'' on line 25.
3. by striking "(A)'' and all that follows through "(4)'' on line 25.

(e) REPEAL OF REQUIREMENT FOR NOTIFICATION REGARDING HEALTH CARE RECEIVED FROM ANOTHER SOURCE.—Subsection (b) of such section is repealed.

(f) REPORT.—Not later than March 1, 2002, the Secretary of Defense shall submit to Congress a report containing—

1. A comprehensive description of the status of the hydraulics system and flight control software of the V-22 Osprey aircraft, including—
   (1) A description and analysis of any deficiencies in the hydraulics system and flight control software of the V-22 Osprey aircraft; and
   (2) A description and assessment of the actions taken to redress such deficiencies.

SA 1668. Mr. BOND (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 270, line 9, strike "(A)" and all that follows through "(4)'' on line 25.

On page 271, between lines 8 and 9, insert the following:

"(c) EVALUATION OF BUNDLING EFFECTS.—Section 15(b)(2) of the Small Business Act (15 U.S.C. 644(h)(2)) is amended—

1. in subparagraph (C), by inserting "and whether contract bundling played a role in the failure," after "agency goals"; and
2. by adding at the end the following:

"(2) The number and dollar value of consolidations of contract requirements with a total value in excess of $5,000,000, including the number of such consolidations that were awarded to small business concerns as prime contractors.".

(d) REPORTING REQUIREMENT.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is amended to read as follows:

"(p) REPORTING REQUIREMENT.—

1. IN GENERAL.—The Administrator shall conduct a study examining the best means to determine the accuracy of the market research needed to determine the accuracy of the market research required under subsection (e)(2) for each bundled contract, to determine if the anticipated benefits were realized, or if they were not realized, the reasons therefor.

2. PROVISION OF INFORMATION.—A Federal agency shall provide to the appropriate procurement center representative a copy of the market research required under subsection (e)(2) for consolidations of contract requirements with a total value in excess of $5,000,000.

3. REPORT.—Not later than 270 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 2002, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the results of the study conducted under this subsection.".
On page 290, between lines 3 and 4, insert the following:

SEC. 824. HUBZONE SMALL BUSINESS CONCERNS.

Section 3(d)(1) of the Small Business Act (15 U.S.C. 632(p)) is amended—

(1) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(2) by inserting after paragraph (3) the following:

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(4) RULE OF CONSTRUCTION RELATING TO CITIZENSHIP.—
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(A) IN GENERAL.—A small business concern described in subparagraph (B) meets the United States citizenship requirement of paragraph (3)(A) if, at the time of application by the concern to become a qualified HUBZone small business concern for purposes of any contract and at such times as the Administrator shall require, no non-citizen has filed a disclosure under section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

(B) CONCERNS DESCRIBED.—A small business concern is described in this subparagraph if the small business concern—
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(i) has a class of securities registered under the Securities Exchange Act of 1934 (15 U.S.C. 78j); and

(ii) files reports with the Securities and Exchange Commission as a small business issuer.
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(C) NON-CITIZENS.—In this paragraph, the term 'non-citizen' means—

(i) an individual that is not a United States citizen;

(ii) any other person that is not organized under the laws of any State or the United States.
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SA 1681. Mrs. LINCOLN (for herself and Mr. HUTCHINSON) submitted an amendment intended to be proposed by her to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 142. PROCUREMENT OF ADDITIONAL M291 SKIN DECONTAMINATION KITS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR DEFENSE-WIDE PROCUREMENT.—(1) The amount appropriated by section 104 for Defense-wide procurement is hereby increased by $2,400,000, with the amount of the increase available for the procurement of M291 skin decontamination kits.

(2) The amount available under paragraph (1) for procurement of M291 skin decontamination kits is in addition to any other amounts available under this Act for procurement of M291 skin decontamination kits.

(b) OPPSRT.—The amount authorized to be appropriated by section 104(d) for research, development, test, and evaluation, Defense-wide, is hereby decreased by $2,400,000, with the amount to be derived from the amount available for the Technical Studies, Support and Analysis program.

SA 1682. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 833. INSENSITIVE MUNITIONS PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—Chapter 141 of title 10, United States Code, is amended—

(1) by adding at the end the following new section 2405:

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(2405. Insensitive munitions program

(a) REQUIREMENT FOR PROGRAM.—The Secretary of Defense shall ensure, to the extent practicable, that munitions under development or in procurement are safe throughout development and fielding when subjected to unplanned stimuli.

(b) CONTENT OF PROGRAM.—The program shall include safety criteria, safety procedures, and requirements to conform to those criteria and procedures.

(c) REPORTING REQUIREMENT.—At the time that the budget for a fiscal year is submitted to Congress under section 110(a) of title 31, the Secretary shall submit to Congress a report on the insensitive munitions program. The report shall include the following matters:

(1) The waivers of requirements referred to in subsection (b) that have been granted during the fiscal year preceding fiscal year in which the report is submitted, together with a discussion of the justifications for the waivers.

(2) The amount of funding proposed for the program in that budget, together with an explanation of the proposed funding.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2404 the following new item:

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2405. Insensitive munitions program.
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SA 1685. Mr. WARNER (for Mr. HUTCHINSON) proposed an amendment to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

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

SEC. 556. RETROACTIVE MEDAL OF HONOR SPECIAL PENSION.

(a) ENTITLEMENT.—Notwithstanding any other provision of law, Robert R. Ingram of Jacksonville, Florida, who was awarded the Medal of Honor pursuant to Public Law 105-111, shall receive the special pension provided for under section 1562 of title 38, United States Code (and antecedent provisions of law), for months that begin after March 1965.

(b) AMOUNT.—The amount of special pension payable under subsection (a) for a month that begins before the date of the enactment of this Act shall be the amount of special pension provided for by law for that month for persons entered and recorded in the Navy, Army, Air Force, and Coast Guard Medal of Honor Roll (or antecedent Medal of Honor Roll required by law).

SA 1686. Mr. LEVIN (for Mr. KENNEDY) proposed an amendment to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert:

SEC. 102. LEASING OF NAVY SHIPS FOR UNIVERSITY NATIONAL OCEANOGRAPHIC LABORATORY SYSTEM.

Subsection (g) of 10 U.S.C. 2867 (section 1061, National Defense Authorization Act, 1998, P.L. 105-85) is amended by adding a new paragraph at the end as follows:

(3) The requirements of paragraphs (1) and (2) shall not apply to renewals or extensions of a lease with a selected institution for operation of a ship within the University National Oceanographic Laboratory System, if—

(B) because of the anticipated value to the Navy of the oceanographic research and training that will result from the ship's operation, no monetary lease payments are required from the lessee under the lease or under any renewals or extensions; and

(C) the lessee is required to maintain the ship in good repair and in good operating condition, and as-
activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XII, add the following:

SEC. 1124. PROFESSIONAL CREDENTIALS.
(a) In GENERAL.—Chapter 57 of title 5, United States Code, as amended by this Act, is amended by adding at the end the following:

"(b) No authority under subsection (a) may be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"5758. Expenses for credentials."

SA 1688. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on that table; as follows:

On page 31, between lines 15 and 16, insert the following:

SEC. 233. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002 FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION DEFENSE-WIDE.

Section 201(4) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-32) is amended by striking "$10,873,712,000" and inserting "+$10,874,712,000".

SA 1689. Mr. DOMENICI (for himself, Mr. HAGEL, Mr. LUGAR, Mr. BINGAMAN, Mr. BIDEN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

Subtitle C—Coordination of Nonproliferation Programs and Assistance

SEC. 1231. SHORT TITLE.
This title may be cited as the "Nonproliferation Programs and Assistance Coordination Act of 2001".

SEC. 1232. FINDINGS.
Congress makes the following findings:

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-related technologies, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states.

(2) Although the United States national security interest, the effectiveness of these efforts suffers from a lack of coordination within and among United States Government agencies.

(3) Increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states.

(4) Increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union require the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on nonproliferation efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

SEC. 1233. ESTABLISHMENT OF COMMITTEE ON NONPROLIFERATION ASSISTANCE TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) ESTABLISHMENT.—There is established in the executive branch of the Government an interagency committee known as the "Committee on Nonproliferation Assistance to the Independent States of the Former Soviet Union" (in this title referred to as the "Committee").

(b) MEMBERSHIP.—(1) The Committee shall be composed of 6 members, as follows:

(A) A representative of the Department of State designated by the Secretary of State.

(B) A representative of the Department of Energy designated by the Secretary of Energy.

(C) A representative of the Department of Defense designated by the Secretary of Defense.

(D) A representative of the Department of Commerce designated by the Secretary of Commerce.

(E) A representative of the Assistant to the President for National Security Affairs designated by the Assistant to the President.

(F) A representative of the Director of Central Intelligence.

(2) The Secretary of a department named in subparagraph (A), (B), (C), or (D) of paragraph (1) shall designate as the department's representative an official of that department who is not below the level of an Assistant Secretary of that department.

(3) The Committee shall meet at least once a year, and shall provide guidance on arrangements that will coordinate, de-conflict, and maximize the utility of United States public spending on nonproliferation programs of the independent states of the former Soviet Union to ensure efficiency and further United States national security interests; encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union; provide guidance on arrangements that will coordinate, de-conflict, and maximize the utility of United States public spending on nonproliferation programs of the independent states of the former Soviet Union to ensure efficiency and further United States national security interests; encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union; and

(b) PROGRAM REQUIRED.—The Committee shall develop a comprehensive program for the Federal Government for carrying out nonproliferation programs and activities.

(1) The program under subsection (a) shall include plans and proposals as follows:

(A) Programs for countering the proliferation of weapons of mass destruction and related materials and technologies.
SEC. 1239. INDEPENDENT STATES OF THE FORMER SOVIET UNION DEFINED.

In this title, the term "independent states of the former Soviet Union" has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 8801).

SA 1690. Mr. HELMS (for himself, Mr. MILLER, Mr. SHELBY, Mr. BOND, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1438, to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following new title:

TITLE XIV—AMERICAN SERVICE-MEMBERS' PROTECTION ACT OF 2001

SEC. 1401. SHORT TITLE.

This title may be cited as the "American Servicemembers' Protection Act of 2001".

SEC. 1402. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations’ General Assembly Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the "Rome Statute of the International Criminal Court". The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 120 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft the documents of the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: "We are left with consequences that do not serve the cause of international justice."

(5) Ambassador Scheffer went on to tell the Congress that: "Multinational peacekeeping forces that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty is an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court..." The United States has agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States -- and other nations -- to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed."

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000.

In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, "I will not, and do not believe that my successor will, submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied".

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces from the maximum possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression, United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving efforts to prevent or deter terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially when they are threatened by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to "determine the existence of any...act of aggression" would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. 1403. WAIVER AND TERMINATION OF PROHIBITIONS ON THE USE OF nTACT.

(a) AUTHORITY TO DENY WAIVE WEC TIONS 1405 AND 1407.—The President is authorized to waive the prohibitions and restrictions set forth in sections 1405 and 1407 for a single period of one year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the
International Criminal Court has entered into an agreement that—

(A) waives the prohibitions and requirements of sections 1404 and 1407 for successive periods of one year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least fifteen days in advance of exercising such authority:

(i) notifies the appropriate congressional committees of the intention to exercise such authority; and

(ii) certifies to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) waives any actions undertaken by the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(i) covered United States persons;

(ii) covered allied persons; and

(iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court;

(c) INVESTIGATIVE ACTIVITIES.—Notwithstanding any other provision of law, no agency of the United States Government may transmit for use by the International Criminal Court or any other international tribunal or agency in the United States any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

(d) PROHIBITION ON PROVISION OF SUPPORT TO MUTUAL LEGAL ASSISTANCE TREATIES.—The United States shall exercise its rights to furnish any international treaty, mutual legal assistance, and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and executive agreements, to which the United States is a party, and in connection with the execution or issuance of any exchange of letters rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

SEC. 1405. RESTRICTION ON EXPENDITURES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 1406. RESTRICTION ON INVESTIGATIVE ACTIVITIES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 1407. RESTRICTION ON EXPENDITURES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 1408. RESTRICTION ON EXPENDITURES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 1409. RESTRICTION ON EXPENDITURES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 1410. RESTRICTION ON EXPENDITURES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.
of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement with a party to the International Criminal Court preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States participating in that country; (3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation. 

SEC. 1406. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT. (a) IN GENERAL.—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution. 

(b) INDIRECT TRANSFER.—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution. 

(c) CONSTRUCTION.—The provisions of this section shall be construed to prohibit any action permitted under section 1408. 

SEC. 1407. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE TO PARTIES TO THE INTERNATIONAL CRIMINAL COURT. (a) PROHIBITION OF MILITARY ASSISTANCE.—Subject to subsections (b) and (c), and, effective one year after the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, no United States military assistance may be provided to the government of a country that is a party to the International Criminal Court. 

(b) NATIONAL INTEREST WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that it is important to the national interest of the United States to waive such prohibition. 

(c) ARTICLE 98 WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that it is important to the national interest of the United States to waives the prohibition pursuant to Article 98 of the Rome Statute preventing the International Criminal court from proceeding against the armed forces of the United States personnel present in such country. 

(d) EXEMPTION.—The prohibition of subsection (a) shall not apply to the government of— (1) a NATO member country; (2) a major NON-NATO ally (including Australia, Brazil, Philippines, Jordan, Iraq, Georgia, Pakistan, and New Zealand); or (3) Taiwan. 

SEC. 1408. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY THE REQUEST OF THE UNITED STATES IN THE JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT. (a) AUTHORITY.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court. 

(b) PERSONS AUTHORIZED TO BE FREED.—The authority of subsection (a) shall extend to the following persons: (1) United States persons. 

(c) AUTHORIZATION OF LEGAL ASSISTANCE.—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide— (1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section); (2) exculpatory evidence on behalf of that person; and (3) defense of the interests of the United States through appearance before the International Criminal Court, the President shall transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2). 

SEC. 1409. ALLIANCE COMMAND ARRANGEMENTS. (a) DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Not later than one year after the date of the enactment of this Act, the President should submit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2). 

(b) REPORT UNDER SUBSECTION (a).—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form. 

SEC. 1410. WITHHOLDINGS. Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1901A–400), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State. 

SEC. 1411. APPLICATION OF SECTIONS 1404 AND 1406 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES. (a) IN GENERAL.—Sections 1404 and 1406 shall not apply to any action or actions with respect to a person described in subsection (a) who is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the United States engaged in military operations under an agreement with the United States pursuant to article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution. 

(b) NOTIFICATION TO CONGRESS.— (1) IN GENERAL.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 1404 or 1406, the President shall submit to the appropriate congressional committees a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that such action is in the national interest of the United States, and a justification for the action. 

(2) EXCEPTION.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under this paragraph not later than 15 days after the reasons for the determination under this paragraph no longer apply. 

(c) CONSTRUCTION.—Nothing in this section shall be construed as a delegation of any authority to the President to take any action. 

SEC. 1412. NONDELEGATION. The authorities vested in the President by section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President pursuant to section 705 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated. 

17876 CONGRESSIONAL RECORD—SENATE September 25, 2001
SEC. 1413. DEFINITIONS.

As used in this title and in section 706 of the Arms Export Control Act of 1976, as amended and in section 1677 of the Arms Export Control Act of 1976, as amended, the term ‘‘appropositive committee’’ means the Committee on Foreign Relations of the Senate and the Committee on Armed Services of the House of Representatives.

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘‘appropriate congressional committees’’ means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) CLASSIFIED NATIONAL SECURITY INFORMATION.—The term ‘‘classified national security information’’ means any information that is classified under section 3 of the National Security Act of 1947 (50 U.S.C. 403) or that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) COVERED ALLIED PERSONS.—The term ‘‘covered allied persons’’ means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) COVERED UNITED STATES PERSONS.—The term ‘‘covered United States persons’’ means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is a party to the International Criminal Court.

(5) EXTRADITION.—The terms ‘‘extradition’’ and ‘‘extradite’’ mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 2 of the Rome Statute.

(6) INTERNATIONAL CRIMINAL COURT.—The term ‘‘International Criminal Court’’ means the court established by the Rome Statute.

(7) MAJOR NON-NATO ALLY.—The term ‘‘major non-NATO ally’’ means a country that has been designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term ‘‘participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations’’ means to conduct a business meeting to consider the following nominations: Brigadier General Edwin J. Arnold, Jr. to be a Member and President of the Mississippi River Commission; Nils J. Diaz to be a member of the Nuclear Regulatory Commission; Marianne Lamont Brink to be Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior; Paul Michael Parker to be Assistant Secretary of the Army for Civil Works, Department of Defense; Mary E. Peters to be Administrator of the Federal Highway Administration, Department of Transportation; and Brigadier General Carl A. Strock to be a Member of the Mississippi River Commission.

In addition, the following will be considered: S. 950, Federal Reformulated Fuel Act of 1999; S. 1296, the Appalachian Regional Development Act of 1965; S. 1270, to designate the United States courthouse located at 8th Avenue and Mill Street in Eugene, Oregon, as the ‘‘Wayne Lyman Morse United States Courthouse’’; and several GSA Building and Lease Committee Resolutions.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 25, 2001, at 11 a.m., to hold a nomination hearing.

Nominees: Mr. Dennis Schornack, of Michigan, to be Commissioner on the part of the United States on the International Joint Commission, United States and Canada; Mr. John Danilovich, of California, to be Ambassador to the Republic of Costa Rica; and Mr. John Austin Day, of Texas, to be Under Secretary of State for Public Diplomacy; Mr. Ralph Boyce, Jr., of Virginia, to be Ambassador to the Republic of Indonesia; Mr. Kenneth Brill, of Maryland, to be Representative of the United States of America to the Vienna Office of the United Nations, with the rank of Ambassador; Mrs. Patricia