HOUSE OF REPRESENTATIVES—*Monday, June 27, 1994*

The House met at 12 noon, and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 27, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are reminded in the Scriptures that there is faith and hope and love and that the greatest of these is love. We pray, O gracious God, that those who live in a relationship of love will find their lives nourished by Your spirit and strengthened by Your presence. With the very real difficulties in our world and communities and the strains and tensions between people, we pray today that our hearts and minds will be raised above our own private interests to see how the gift of love can bind us together and connect us in ways that celebrate Your whole creation. May people receive the gifts of love and devotion, of respect and kindness so they will cherish each other in all the seasons of life. This is our earnest prayer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] please come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

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

VICTIMS FORGOTTEN WHILE MURDERS INCREASE

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

Mr. TRAFICANT. Mr. Speaker, America is still in shock. O.J. Simpson is charged with murder—two murders. On television and in the news print the media keeps asking about O.J. Did O.J. do it? Could O.J. have taken such a large knife and cut his wife's throat? Was O.J. on cocaine? Was there another side of O.J.?

O.J., O.J.—on and on about O.J. You are innocent until proven guilty, but the fact remains, Mr. Speaker, that Nicole Simpson and Ron Goldman were brutally murdered in southern California and everybody keeps talking about the accused.

In America how soon we forget the victims, with tombstones jumping up like mushrooms all over the country. With 25,000 murders a year, everybody is preoccupied with the accused.

Maybe it is time, I say to the Congress, to reflect on victims and what is happening in our country. Maybe that is why we have so many murders and so many victims.

THE NUMBERS BEHIND CLINTON'S HEALTH BILL

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

Mr. SMITH of Texas. Mr. Speaker, America should see the numbers behind President Clinton's health care plan.

I do not mean the incomprehensible billions of dollars and millions of jobs the plan will cost the country.

I mean the very same numbers that come out of what his health care plan actually says.

Within its 1,342 ponderous pages, the word "mandatory" is used 24 times.

The word "prohibit" is there 51 times; "restrict," 54 times.

The plan uses the word "obligation" 56 times, "penalty" 59 times, and "enforce" 87 times.

And the President's plan uses "limit" an incredible 269 times.

I ask those listening to consider, if you had a choice—and if this plan passes you will not—are those the words you would want to describe your health plan? The President would, Republicans would not.

URANIUM STOCKPILES IN COLORADO A REAL CAUSE FOR CONCERN

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

Mrs. SCHROEDER. Mr. Speaker, I continue to be amazed at the new, new era at the Department of Energy. I just came from a briefing held by Hazel O'Leary that really makes me breathe much easier. The news is not good, but at least we finally have the truth in front of us.

Hazel O'Leary announced today that there are 6.7 metric tons of highly enriched uranium right outside my district in Rocky Flats. We never knew about this. This has been highly classified since 1945. Everybody has been very worried about the plutonium, and we now find that there is also this huge pile of highly enriched uranium that is still there.

Now at least we can get on with what we really need to do to clean it up, and it is time we realized that all these things we had out there to scare the Soviet Union during the cold war is now terrifying America's citizens now that that war has stopped. But we must do everything we can to change that, get it cleaned up, and put the West back the way it was.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 28, 1994.

GENERAL AVIATION REVITALIZATION ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes, as amended.

The Clerk read as follows:

S. 1458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Aviation Revitalization Act of 1994".

SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

(1) after the applicable limitation period beginning on—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

(b) EXCEPTIONS.—Subsection (a) does not apply—

(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.) at the time of the accident.

(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

SEC. 3. OTHER DEFINITIONS.

For purposes of this Act—

(1) the term "aircraft" has the meaning given such term in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

(2) the term "airworthiness certificate" means an airworthiness certificate issued under section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)) or under any predecessor Federal statute;

(3) the term "limitation period" means—

(A) 15 years with respect to piston-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft;

(B) 18 years with respect to turboprop-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

(C) 22 years with respect to other general aviation aircraft (including jet-powered general aviation aircraft) and the components, systems, subassemblies, and other parts of such aircraft; and

(4) the term "type certificate" means a type certificate issued under section 603(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(a)) or under any predecessor Federal statute.

SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commended before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such times as I may consume, and pending that, I yield 10 minutes to the gentleman from Minnesota [Mr. OBERSTAR] and ask unanimous consent that he may control that 10 minutes of time and yield blocks of time to other Members as he sees fit.

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

There was no objection.

Mr. FISH. Mr. Speaker, I wish to make a similar request, and that is that I ask unanimous consent that I may yield 10 minutes to the gentleman from Pennsylvania [Mr. CLINGER], the ranking member of the committee, and that be may control that time.

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

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, S. 1458 would impose a federally mandated statute of repose with regard to general aviation liability actions. It would eliminate a claimant's right to bring a State tort action against a manufacturer for accidents that occur more than a specified number of years after the date of manufacture.

Previous versions of S. 1458 read more like a textbook on how to rewrite all of product liability law than as a measured response to the special needs of this distinctive and once-vibrant U.S. industry. And, as the Members know, I have long cautioned against radical surgery by the Federal Government of this traditional province of State law.

However, I have always maintained that when proponents for change make a compelling case for legislation, I am willing to consider it. In this Congress, some of the supporters have wisely abandoned the generic reform strategy for a more narrowly focused approach. It is because of this realism that many in Congress feel that a carefully crafted legislative response is appropriate.

I would also like to recognize the absolutely crucial contribution of Congressman DAN GLICKMAN in brining us to this point. He has represented his constituency very well indeed—especially by his good judgment in seeking a measured response that avoids extremes. He has markedly increased the chances of enactment in this Congress by his actions.

Finally, the leadership of Congressmen MIKE SYNAR and RICK BOUCHER in helping to fashion a very balanced substitute amendment is much appreciated. The amendment they offered at subcommittee—subsequently approved by voice vote in the subcommittee and full committee with Mr. GLICKMAN'S support—provides for a statute of repose of 15 years for piston-powered general aviation aircraft, 18 years for turboprops and 22 years for jets. This amendment thus provides the greatest relief in the area which will produce the most jobs—production of piston-powered aircraft.

I think the bill before the House represents a product that was enhanced by the committee process, and vindicates that process. It is a lesson worth remembering.

□ 1210

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

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

Mr. FISH. Mr. Speaker, the issue of liability reform for the manufacturers of general aviation aircraft has been pending in Congress for nearly a decade. During this period, the general aviation industry has lost thousands of jobs. Today, that industry is manufacturing only a fraction of the airplanes it was building just 15 years ago. Congress must act this year to affirmatively address this problem.

I have been a cosponsor of legislation to reform our liability laws with respect to general aviation for four consecutive Congresses. I have been pleased to join in this long-standing effort with my good friend and colleague from Kansas, Mr. GLICKMAN. He has been a very effective advocate for the general aviation industry and deserves high praise for his patience, determination, and perseverance.

General aviation is an industry that has come to symbolize our Nation's finest qualities—inventiveness, imagination, technological innovation, individualism, self-reliance, and quality workmanship. Many of these companies—Cessna, Beech, Piper—have been building airplanes for decades. Unfortunately, it is an industry that has become the victim of its own success. The better it built the planes, the longer they lasted; the longer they lasted, the greater the potential liability because of judicial interpretations, such as strict liability, that altered tort law.

General aviation is in a classic catch-22 situation—a quality industry that is being punished because of its success. For example, about 120,000 Cessnas are still in operation and their average age is 27 years. Since 1986, that company has spent over $20 million a year—$160 million over the last 8 years—defending lawsuits, involving aircraft as old as 47 years. it is simply time to draw a reasonable time line that allows these companies to get back to their real business.

The bill before us would establish a Federal statute of repose to protect general aviation manufacturers from long-term liability in those instances where a particular aircraft has been in operation for a considerable number of years. A statute of repose is a legal recognition that, after an extended period of time, a product has demonstrated its safety and quality, and that it is not reasonable to hold a manufacturer legally responsible for an accident or injury occurring after that much time has elapsed. Fifteen States now have statutes of repose, some as long as 12 years and others as short as 6 years.

S. 1458 does not preclude an individual's ability to bring a lawsuit regarding an aircraft. It merely provides some relief to the manufacturer of the original frame and parts from liability, after the product has left the manufacturer's possession and control for a reasonable period of time. Furthermore, this bill provides for, what is in effect, a rolling statute of repose for all replacement parts—component, system, subassembly, or other part—on an aircraft.

Legislation analogous to S. 1458 has received overwhelming support in terms of cosponsorship in virtually every Congress since 1986. However, to date, the opponents of general and specific product liability reform legislation have been successful in blocking a vote in the House of Representatives. Fortunately, the logjam has now been broken and the House will finally get to vote on this important matter tomorrow.

It is important to point out that the version of S. 1458 before the House today is not the same version that passed the Senate earlier this year. The original Senate language was amended in the Judiciary Committee and that substitute language is before us today. I must admit that I would have preferred that the Judiciary Committee report out S. 1458 as passed by the Senate. I say that because there is, of course, strong opposition on the part of the trial bar to any type of product liability legislation. In fact, the delays that have affected this bill reflect how effective that opposition can be. By sending this bill back to the Senate, we risk giving the bill's opponents yet another opportunity to use procedural tactics to block its consideration there—and its ultimate enactment.

However, aside from my parliamentary concerns, I would observe that the committee substitute is an acceptable bill. Instead of a uniform 18-year statute of repose provided in the Senate bill, this substitute contains a sliding scale—a trifurcated approach. For piston-powered aircraft, the statute of repose would be 15 years; for turboprop-powered aircraft, the statute of repose would be 18 years; and for jet-powered and other remaining aircraft, the statute of repose would be 22 years. The bill will apply to suits brought in either Federal or State court. Furthermore, the substitute language makes it clear that this act will not apply to suits filed prior to the date of enactment.

It is my expectation that legal challenges, based upon constitutional arguments, could be made against this legislation. Presumably these challenges would be based either upon 7th amendment grounds, that is, jury trial—or upon 14th amendment grounds, that is, due process and equal protection. These challenges will not be successful. As the Nation's legislature, Congress is making a reasonable and appropriate policy choice similar to selecting a specific statute of limitations. That is our prerogative in this type of circumstance, and there is nothing unconstitutional about it. This bill simply says that a product cannot be considered a defective product in a legal sense after it has left the control of the manufacturer beyond a specified period of time. Once the statute of repose has expired, the Federal Aviation Agency's standards on air safety will still apply and the flying public will continue to be protected.

I support S. 1458 and urge my colleagues to vote in favor of the bill. It is a reasoned response to a liability system that has crippled a once dynamic industry. I sincerely hope that the Senate will move quickly to consider our substitute language and send a bill to the President this summer.

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

Mr. OBERSTAR. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, this day may well be known as the day in which the liberation of general aviation aircraft manufacturing began; a day in which we moved toward enactment of legislation that is the culmination of a 7-year effort to take up legislation to relieve the general aviation manufacturing industry from excessive product liability costs. It is legislation that is also noteworthy for its fair treatment of those who are injured in general aviation aircraft accidents.

Much of the credit for success toward this objective goes to our colleague, the gentleman from Kansas [Mr. GLICKMAN], who introduced the first House legislation in 1987, and has been dogged and persistent ever since in working toward this day, along with our colleague from Utah, Mr. HANSEN, who also has given the issue his total time and attention, to shape what is essentially a compromise from the originally introduced legislation to one that I would call, focused, targeted, and workable.

The Committee on Public Works and Transportation has been a strong supporter of this legislation for many years. In 1988 and 1989, we reported general aviation product liability legislation to the House. In this Congress, again, we held hearings and reported the bill.

This is jurisdiction we share with the Committee on the Judiciary, and this year the Judiciary Committee has fashioned, together with our colleagues in the other body, modifications to the bill which I believe improve it, and, most importantly, make it possible to get this bill through the House, through the Senate, and on to the President for signature.

Our full committee chairman, the gentleman from California [Mr. MINETA], who was chair of the Subcommittee on Aviation, has been a strong supporter of this legislation, was the first subcommittee chair to report such legislation, and has been a champion of it ever since.

There has been strong bipartisan support in our committee. The gentleman from Pennsylvania [Mr. CLINGER], my partner on the Subcommittee on Aviation, the ranking member of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER]; and, frankly, all of the Members on our subcommittee, have worked together to bring this legislation to the point where we are today.

□ 1220

We believe very strongly this legislation can play a major role in reversing the decline in the Nation's general aviation manufacturing sector. General aviation aircraft sales by U.S. manufacturers dropped from 17,000 aircraft built in 1979 to 954 such aircraft in 1993.

For single engine, piston aircraft, the decline has been even more significant, from 14,000 units in 1978 to 555 in 1993.

Along with the loss of production there has been, more importantly, the loss of over 100,000 jobs in general aviation manufacturing and the related industries.

The decline in general aviation manufacturing has worsened our position in international trade. In 1980, we exported $120 million surplus in single engine piston aircraft, but that surplus declined to a bare $5 million in 1992.

In fact, unless this legislation is enacted and general aviation manufacturing increases, we will have a whole generation of American pilots being trained on foreign aircraft, as aviation schools and, universities are buying aircraft such as the French ATR on which to train a whole new generation of pilots.

We do not want that to happen. America must maintain its preeminence in aviation manufacturing and aviation technology.

This legislation strikes a fair balance between manufacturers, consumers and persons who are injured in aircraft accidents. It is very unlikely that there would be a valid basis for a suit against the manufacturer of an aircraft more than 15 years old. Nearly all defects are discovered, we have learned in our hearings, during the early years of an aircraft's life. Design and manufacture are regulated by the FAA, which will order corrective action where defeats are revealed. The regulatory system has been very effective.

Data by the National Transportation Safety Board shows that only 1 percent of general aviation accidents are caused by design or manufacturing defects.

However, even though a claimant is unlikely to be successful with a lawsuit against the manufacturer of an older aircraft, these suits are frequently filed. Manufacturers incur substantial expenses in defending or settling the cases.

The best evidence for the fairness of the 18 years statute of repose is that the bill now before us is enthusiastically supported by the Aircraft Owners and Pilots Association, the Experimental Aircraft Association, the National Business Aircraft Association, and the National Air Transport Association. The members of these groups are the persons most likely to be injured in a general aviation accident. They are also the consumers that are damaged by the high aircraft prices resulting from excessive product liability costs.

In sum, I strongly believe that the bill now before us will curb excessive liability costs and at the time afford fair treatment to persons injured in aircraft accidents. The bill can make a major contribution towards reversing the decline in our once powerful general aviation manufacturing industry. The result will be a significant increase in jobs, including the resumption of production of single engine piston aircraft by Cessna. Cessna estimates that this will create 25 thousands jobs.

Again, I commend Chairman BROOKS and his committee for enabling us to go forward with this extremely important legislation. I strongly urge my colleagues to support the bill.

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

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

I think it is no secret that the general aviation manufacturing industry has been decimated. If it is not dead, it is clearly on life support.

As the gentleman from Minnesota has said, since 1978, shipments of new piston aircraft have dropped about 95 percent to about 500 in 1993 and Cessna, which once produced about 6,500 aircraft per year stopped building, totally stopped building small piston aircraft.

Piper Aircraft, which once employed 3,000 people in my district in Lock Haven, PA, is basically out of business. They are bankrupt. They are not manufacturing airplanes at all. The jobs have been lost to foreign manufacturers.

In 1980, there were 29 U.S. manufacturers of general aviation aircraft and 15 foreign manufacturers. Now that ratio has been reversed. In 1992, there were 29 foreign manufacturers of general aviation aircraft and only 9 U.S. manufacturers.

One of the main reasons, the principal reason for the drop in domestic production is the enormous cost of product liability and the insurance to cover that.

Beech Aircraft spent over $100 million in legal fees over four years to defend itself from 203 product liability lawsuits. This, despite the fact that in none of those cases did the National Transportation Safety Board find Beeches' Aircraft to be defective. These added costs have forced many manufacturers to curtail production and have forced many potential aircraft purchasers completely out of the market.

The increase in product liability costs has occurred even though the safety of the general aviation aircraft has been improving, consistently improving over recent years. The number of fatal general aviation accidents has dropped a staggering 700 percent since the end of World War II. The general aviation accident rate itself has dropped about 30 percent just since 1981.

Most general aviation accidents are not caused by defects in the aircraft or the parts but are caused by pilot error, weather or poor maintenance. So the legislation we are considering today would help to address the problem, just address the problem, and turn the general aviation manufacturing industry around.

Here I want to commend the gentleman from Kansas [Mr. GLICKMAN], the gentleman from Utah [Mr. HANSEN], who have been instrumental in bringing this issue, persisting in bringing this issue to the Congress and ultimately to the floor of this House.

As has been indicated, the legislation would establish a 15 to 18 or 22-year statute of repose depending on the type of aircraft which has been discussed. The statute of repose would free manufacturers from the threat of eternal liability for aircraft that long ago have passed from their control or any ability that they have to really monitor that aircraft.

The statute of repose would limit manufacturers' liability exposure and allow them to plan for the future and, thank heaven, begin building aircraft again and hiring workers again, something that we have not seen for 20 years.

Legislation is really limited in scope. It does not place a cap on the amount of damages that an injured person can receive. It does not prohibit contingencies fees or limit the fees an attorney can collect in any other way. And as a result, I think this legislation actually represents a more moderate approach than other product liability reform measures that have been suggested.

In 1988 and 1989, the Committee on Public Works and Transportation approved general aviation product liability reform measures, but those measures were blocked by a very effective effort of the American Trial Lawyers Association. And those versions were killed, which is why today is such an important, significant change.

But now, our committee has worked out a compromise with the Committee on the Judiciary and that is the bill that is before us this morning. Similar legislation has already passed the other body. Hopefully, hopefully with the very reasonable legislation that we should pass today, there will be no difficulty in getting it through the other body one more time so that the general aviation industry can get back on the path of growth once again.

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

Mr. BROOKS. Mr. Speaker, I yield 3 minutes and 30 seconds to the distinguished gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise today to urge my colleagues to support S. 1458, the General Aviation Revitalization Act. I am the sponsor of the companion legislation in the House, H.R. 3087, along with my colleague, JIM HANSEN of Utah, which has 304 Democrat and Republican Members of the House as cosponsors.

After a long journey to get this bill to the floor, I want to extend my deep appreciation to Judiciary Committee Chairman BROOKS and ranking member HAMILTON FISH, Public Works Committee Chairman NORM MINETA and ranking member BUD SHUSTER, Aviation Subcommittee Chairman OBERSTAR and Congressman BILL CLINGER for all their work on this issue over the past several years, as well as to Congressman MIKE SYNAR and RICK BOUCHER,

who helped craft the substitute bill which passed the Judiciary Committee by voice vote last week.

I also want to give special thanks to my friend and colleague, JIM HANSEN of Utah, for his help and dedication to get this bill passed. I also wish to thank my Senate colleague, Senator NANCY KASSEBAUM, for her special role in pushing this bill.

As many of you know, this legislation limits the time that civil liability suits can be brought against general aviation manufacturers. The compromise bill creates a 15-year statute of repose for piston engine aircraft, 18 years for turbo-powered aircraft, and 22 years for all other general aviation aircraft, including jet-powered aircraft. The Senate overwhelmingly passed a bill with an 18-year limit on civil suits for all manufacturers. Both versions contain exceptions for cases involving fraud.

This legislation has the strong support of the Aircraft Owners and Pilots Association, the General Aviation Manufacturers Association, the International Association of Machinists and the Air Line Pilots Association.

This particular liability bill is unique because the aviation industry is exclusively regulated by the Federal Government. Planes, manufacturers, pilots, airspace—everything related to the industry must be certified by the FAA. Airplanes are not the same as cars, or toasters or rollerblades.

There is no other industry selling products to the public in which all of its segments are exclusively regulated by the Federal Government.

Furthermore, this bill will create thousands of jobs shortly after passage. We have already been assured by at least one major manufacturer, Cessna Aircraft, that the assembly lines will be reopened immediately upon passage of this legislation, creating thousands of jobs in a very short time period. Ten years ago, Cessna had more than 1,000 dealers worldwide selling their aircraft. Today, they have none.

This bill is a narrow, focused approach to a problem we have been trying to solve for over 8 years. Unlike earlier versions of the bill, this is a simple time limit on suits against manufacturers. This bill is not about general tort reform. It is about providing some predictability to an industry which has stopped building small airplanes because of liability costs.

But this is not just about small planes. The small plane industry is the genesis of the entire aviation industry. That is why companies like Boeing and McDonnell Douglas see this bill as critical to U.S. preeminence in the commercial aviation industry.

And most importantly, it is about putting thousands of people back to work in a high tech, highly skilled industry without costing the Federal Government a single penny. Not many bills we vote on these days can make that claim.

Just in Wichita alone, Beech Aircraft employed 9,000 workers in 1980. Today they employ 5,000. Cessna Aircraft employed 15,000 people in 1981. Today Cessna employs 5,300. And Piper Aircraft, of Vero Beach, FL, while they had 8,500 people working in 1979, today just has 360 employees. These statistics represent the human side of this bill, not to mention the increase in sales by foreign manufacturers, which have filled the void created by the U.S. decline.

In 1980, there were 29 manufacturers of piston aircraft in the United States and 15 foreign manufacturers. In 1992, there were 9 U.S. manufacturers and 29 foreign manufacturers of piston aircraft.

If we do not relcaim this industry which was once the exclusive domain of American companies, young pilots who are today learning to fly in foreign-built aircraft will never have the opportunity to climb into a new Cessna, Beech or Piper, Aerospatiale of France is now the leading supplier of flight training aircraft in the United States.

These foreign companies have not and will not be hindered by the liability tail of tens of thousands of aircraft still in the marketplace which were built 30, 40, and 50 years ago.

There is one small point I would like to clarify with regard to component parts, which are covered under the bill. The bill covers new component parts installed as replacements for original components. The component, when newly manufactured, receives the same limitation period as the airplane it is installed on.

For example, a used propeller which has 3 years left on its applicable limitation period would still have only 3 years, if installed in its used condition on a different airplane.

I urge you to join me and over 300 cosponsors of this legislation and vote for the General Aviation Revitalization, Act, and help get our manufacturing sector working again while giving not just small planes, but the entire U.S. commercial aviation industry a much-needed shot in the arm.

□ 1230

Mr. FISH. Mr. Speaker, I am very happy to yield 5 minutes to the gentleman from Utah [Mr. HANSEN], who, along with the gentleman from Kansas [Mr. GLICKMAN], has been the driving force, and to whom the industry and former employees who are about to get their jobs back should be very grateful.

Mr. HANSEN. Mr. Speaker, I thank my friend, the gentleman from New York, for yielding time to me.

Mr. Speaker, I appreciate the opportunity to be a small part of what we are discussing today, which I think is one of the most enormous things that is going to happen this year, because it is truly a jobs bill.

Mr. Speaker, since the time of Wilbur and Orville up to the time of Neal Armstrong, aviation in America has taken a real twist. At the time of the Wright brothers, it was kind of a novelty, kind of like telephones. They were a novelty at that point. What a funny idea, to think that man can actually fly, that idea. Then we saw Neal Armstrong step on the Moon.

Mr. Speaker, everything we do in this body right here, we could not make it without airplanes. Each one of us depends on them.

I think back, and as a young boy myself, I was looking up and looking at airplanes, and knowing that my dad used to fly the Curtis Jenny during World War I, a real old airplane. I remember being an airport bum, standing around airports, wanting to see if I could ever get the chance to do it. I still remember at the ripe old age of 16 sitting in an Aeronca Champ, 65 horsepower, it was what we used to refer to as two-blocking that throttle and going down the runway, with that all or nothing feeling when the fence is coming up and wondering if I have enough speed to get over the fence, kind of an interesting feeling. A lot of us in America have done that. A lot of people started out in Piper J–3's, Aeronca Champs, Aircoupes, Stinsons, you name it, Mooneys, and those people today are flying the DC–10's, MD–12's, they are flying the 747's, because they have a chance to do it.

When I look back at those days and all the friends I had who were flying when I learned to fly, then what happened to this great industry? We can go around America, go around the world, go into Thailand, and what do we see? We see the L–19 Bird Dog with that 213 Continental engine in it. Go into anyplace and we will see them. Go up to Alaska. How could they ever maintain the transportation they have in Alaska without light aircraft?

It was pointed out by previous speakers, this is an old, old fleet. These are old airplanes. Now we are giving an opportunity for this to come back and be a dynamic industry. The trouble is through the years people have not looked at liability. They have looked at sympathy.

I used to fly for the Civil Air Patrol. I know we would find somebody stacked in a peak, and the man had only VFR, visual flight rule training, but he is in instrument flight rule weather. He is in a place he has never flown in the mountains, but he is there, and unfortunately, there is something that is not predicated on liability. We find out that 92 percent of these accidents were caused by pilot error.

Like anything, we have to learn to drive a car or anything we use. We have to know, and I still think of an instructor who was working with me when I was trying to get a commercial

ticket. He said this, "Know your own ability and know the capacity of your aircraft. That is important."

Mr. Speaker, unfortunately, like in cars and motorcycles and other things, occasionally these accidents happen. Now we are going to see ourselves bring back a great industry that is so important to America.

Mr. Speaker, I thank my friend, the gentleman from Kansas [Mr. GLICKMAN]. What a tenacious, good man to work with.

Mr. Speaker, we have had a lot of ups and downs in this bill. Together we and all of the good Members here, we came up with 305 cosponsors, and a discharge petition with 185 names on it. I think America wants to see this industry come back.

I do not want it to go overseas. I do not want other nations to say, "We took that industry away from you." We have seen enough of that happen since the Second World War.

This is an industry that is basically American. It started here. We go back, and this is where our roots and genesis is in aviation. We should stay at the head of this. We are doing it by helping bring this back at this particular time.

It does not only pertain to aircraft, though. Think about it. It is avgas, it is avionics, it is tires, and then go beyond that; it is motels, it is hotels, it is people such as that.

Mr. Speaker, this will bring back an industry and help everything we are doing in this area. I would urge my colleagues to vote for it. I think this is an excellent piece of legislation.

Mr. Speaker, I would hope Members would keep in mind as we look at this particular piece of legislation, what are we going to do for America on this? Please do not get channel vision and say that this is only for airplanes. This is going to help us all.

From now on when we go up to the area of our friend, the gentleman from Alaska [Mr. YOUNG], we will see new airplanes in the air. I do not know if it makes Members nervous, but most of us fly in 757's, 767's, DC–10's, the modern and new stuff. For those of us, and I do not fly anymore, but I do take the controls occasionally from the right seat, and we are flying in things that are old as can be. We are flying in things where we wonder about the spars, we wonder about other things. Now we have a chance to rejuvenate it.

Mr. Speaker, I thank the gentleman from New York [Mr. FISH] for yielding time to me. I surely hope we have an overwhelming vote on this today. This is the thing America ought to do. This is right for America.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. BROOKS. Mr. Speaker, I also yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Kansas [Mr. SLATTERY] is recognized for 3 minutes.

Mr. SLATTERY. Mr. Speaker, I rise today in strong support of S. 1458, the General Aviation Revitalization Act. I am an original cosponsor of this legislation in the House and have cosponsored it in every Congress since it was first introduced in 1986. A similar measure passed the Senate earlier this year by a vote of 91 to 8.

Mr. Speaker, I also want to join my other colleagues in expressing my gratitude to my colleague, the gentleman from Kansas [Mr. GLICKMAN], who has worked tirelessly on behalf of his constituents in the aircraft industry.

Mr. Speaker, S. 1458 is a simple concept which will have impact on our Nation. Over 300 House Members support it, and I am pleased that this measure is at long last being considered by the full House here today.

Mr. Speaker, passage of this legislation means jobs for Kansas and it means jobs for this country. More than 1,500 jobs will be created in my State of Kansas alone, and according to other studies, nearly 25,000 jobs will be created nationwide. These will be good paying jobs. I would say to the Members, we are not talking about minimum wage jobs.

Cessna, Beach, Learjet, and other aircraft manufacturers have greatly reduced or altogether halted production of light aircraft because of product liability considerations. The General Aviation Manufacturers Association estimates that 100,000 jobs have been lost since 1980 due to U.S. piston airplane manufacturers going out of business or leaving the country. This was due in large part to fear of product liability.

The industry has gone from 17,000 small aircraft being sold in 1979 to less than 1,000 this past year. Over 100,000 workers have lost their jobs due to this decline, and the industry's liability insurance costs have skyrocketed to over $200 million per year. We must act to change this, and that is exactly what we are doing here today. This measure will enable light aircraft manufacturers to get back into the market, and they have pledged to do so.

□ 1240

This legislation means manufacturing employment opportunities, greater sales of aircraft parts and supplies, more flight instructors will be able to teach more students, and more tourism dollars will be spent all across the country.

Mr. Speaker, I have had the opportunity to visit with Kansas aircraft industry executives, labor leaders, workers on the assembly line, pilots, and they all stress the importance of passing this bill. By passing this legislation, the manufacturers will be relieved from focusing much of their time and attention on lawsuits and will be allowed to remain focused on their purpose and, that is, to build the safest and best airplanes in the world.

I strongly urge my colleagues to support passage of this legislation today. It is good for America, it is going to create thousands of jobs in this country. This is what we all should call a no-brainer and pass it immediately.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of S. 1458, the General Aviation Revitalization Act. As an original cosponsor of the House version of this measure, H.R. 3087, and a cosponsor of similar bills in previous sessions of Congress, this Member is pleased to see this important legislation finally get off the ground.

This Member commends the distinguished gentleman from Kansas [Mr. GLICKMAN] for his persistence over the past 8 years as he has attempted to reform the aviation liability laws. This Member would also like to express his appreciation to the leading role of the distinguished gentleman from Utah [Mr. HANSEN] who has just spoken with such eloquence and passion for his crucial role in advancing the legislation and, who, along with Mr. GLICKMAN, initiated the discharge petition effort which served as the catalyst for today's consideration of S. 1458.

The aviation manufacturing industry in the United States has been devastated in recent years by unreasonable liability laws. The current law which allows for unlimited liability regardless of the age of the aircraft discourages manufacturers from producing planes and penalizes aircraft owners and pilots by increasing the costs of planes and parts.

S. 1458 injects common sense into the current law and will allow the United States to regain its leadership in the general aviation industry. It is estimated that passage of this legislation will create at least 25,000 jobs in the next 5 years. The legislation will also greatly aid U.S. exports of piston airplanes, which have declined more than 80 percent in 15 years.

U.S. production of general aviation aircraft dropped from 17,811 planes in 1978 to 880 planes in 1992. Also, since 1983, 100,000 American jobs have been lost in the general aviation industry and foreign manufacturers have stepped in to fill this void. In 1980, there were 29 manufacturers of piston aircraft in the United States and 15 foreign manufacturers. In 1992, however, there were 9 U.S. and 29 foreign manufacturers of piston aircraft. Such a reversal poses a significant threat to the future of U.S. commercial and military aviation.

Enactment of this legislation will create tremendous benefits not only for aircraft manufacturers—such as

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Cessna, Beech, and Learjet—but also for pilots, machinists, suppliers, contractors, and prospective aircraft owners. This Member expects this legislation to greatly assist Nebraska's 4,700 pilots and businesses such as Duncan Aviation in Lincoln, NE, which is a major national commercial enterprise servicing, retrofitting and repairing commercial aircraft.

Mr. Speaker, this Member urges his colleagues to support S. 1458. General aviation liability reform is long overdue. The distinguished gentleman from New York [Mr. FISH] has rightly lamented and warned of the risk the committee unfortunately has been in amending S. 1458. It gives opponents of reform one more chance to stall this long overdue reform legislation. The American public should and will watch to see who acts or permits this legislation to be stalled before final enactment of S. 1458.

Mr. OBERSTAR. Mr. Speaker, I yield the balance of our time to the gentleman from California [Mr. MINETA], chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I appreciate the gentleman from Minnesota yielding me this time.

Mr. Speaker, I rise today in strong support for S. 1458, the General Aviation Revitalization Act of 1994. At the outset, I would like to express my thanks to several of my colleagues without whose efforts this extremely important piece of legislation would not be before us. First, I must acknowledge the tireless efforts of the original sponsors of the legislation, Congressman GLICKMAN and Congressman HANSEN. They have worked for years to bring this legislation to the House floor and I greatly admire their perseverance. Many others would have given up in the face of the opposition they have encountered over the years. I would also like to thank Congressman OBERSTAR and Congressman CLINGER, the chairman and ranking member of the Subcommittee on Aviation. They have worked hard on this issue, been party to countless meetings, and held several hearings in an effort to bring relief to general aviation aircraft manufacturers. As always, I would like to thank Congressman SHUSTER, the ranking member of the Committee on Public Works and Transportation, for his continued and unwavering support of this legislation. Finally, I would like to thank Chairman BROOKS and Congressman FISH, the chairman and ranking member of the Committee on the Judiciary, for their help with this legislation. I know that Chairman BROOKS had significant concerns about the potential effect of this type of legislation. I am very grateful for his willingness to compromise on this issue to help save an once thriving industry, the general aviation aircraft manufacturing industry.

The Committee on Public Works and Transportation has historically recognized the devastating effects of product liability litigation on the general aviation manufacturing industry. In both the 100th and 101st Congresses, this committee reported comprehensive bills that would have established both a statute of repose and standards of comparative and general liability.

S. 1458, which is not as broad as previous legislation in this area, enjoys overwhelming support within the House of Representatives, amassing 305 cosponsors. In addition, the support for this bill is bipartisan. Rarely does Congress have the opportunity to address the needs of a critical industry in a manner that has such significant bipartisan support.

This version of S. 1458 is slightly different from the version reported by the Committee on Public Works and Transportation. It establishes a three-tier statute of repose, depending on the type of aircraft. Piston aircraft would be subject to a 15-year statute of repose, turboprop aircraft would be subject to an 18-year statute of repose, and jet aircraft would be subject to a 22-year statute of repose. These limits would prevent litigants from suing general aviation manufacturers if the aircraft is older than the applicable time limit. The statute of repose would not apply to aircraft parts or components that are less than the applicable age. For example, if a piston aircraft hull is 20 years old, but the engine is only 10 years old, in the event of an accident, only the aircraft engine manufacturer could be sued.

This approach is both effective in limiting the number of lawsuits aircraft manufacturers must defend, and fair to litigants pursuing legitimate tort claims. Most aircraft are bought and sold repeatedly in a 15- or 20-year period. Different owners often provide different levels of aircraft maintenance. If an aircraft has performed without incident for many years, I believe the product has sufficiently proven itself. To require an aircraft manufacturer to repeatedly defend tort actions regarding aircraft for which the manufacturer has not had responsibility or control for more than a decade is unreasonable. To impose these statutes of repose allows litigants ample opportunity to uncover product defects and take appropriate action, if warranted.

It costs an aircraft manufacturer approximately $500,000 to defend itself in a lawsuit, even if the manufacturer prevails. The excessive cost of defending tort suits regarding aircraft that are 20, 25, or even 30 years old have directly attributed to the manufacturers' decision to limit the type of new general aviation aircraft produced.

The United States was once a major producer of general aviation aircraft. In 1979, U.S. companies manufactured more than 17,000 general aviation aircraft. In 1992, only 899 such aircraft were produced. The number of single engine piston aircraft manufactured declined from 14,000 aircraft in 1978 to about 500 in 1992. This market is now being supplied primarily by foreign manufacturers that do not have the same exposure to liability because they have not been manufacturing aircraft for as long as their U.S. counterparts.

This translates directly into jobs lost in the general aviation manufacturing industry. We know with certainty that if this bill is enacted, it will have an immediate and positive impact on general aviation manufacturing. A representative from Piper Aircraft testified at the hearing held on this bill before the Subcommittee on Aviation that if the bill is passed, Piper will resume manufacturing single engine piston aircraft which it has not built for several years.

I urge my colleagues to support this important piece of legislation which is long overdue, and will result in the revitalization of an entire industry.

Mr. FISH. Mr. Speaker, I yield my remaining 30 seconds to the gentlewoman from Kansas [Mrs. MEYERS].

Mr. CLINGER. Mr. Speaker, I yield an additional 1 minute to the gentlewoman from Kansas.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentlewoman from Kansas [Mrs. MEYERS] is recognized for 1½ minutes.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in strong support of S. 1458, the General Aviation Revitalization Act and I would like to thank all those who have worked so hard to bring this bill to the floor. I am pleased the House finally has the opportunity to give its approval to this much-need legislation.

As my Kansas colleague noted earlier, product liability has not only been driving aviation manufacturing away from Wichita, it has also been pressing its heavy hand on avionics manufacturers in my Kansas congressional district, including Allied-Signal which employs 2,800 in Olathe, KS. The legislation before the House today will shield these jobs from being jeopardized because of the fear of questionable litigation. More importantly, it has the potential to create more jobs nationwide, since general aircraft manufacturing will likely increase after it is enacted. So the potential is there for job creation in all of our districts.

My support for this legislation is also spurred by Kansas constituents who are private pilots, for which this is one of their legislative goals. I urge my colleagues to support S. 1458.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma [Mr. SYNAR], a distinguished member of the Committee on the Judiciary and one of the coauthors of this compromise that has received so much public acclaim.

Mr. SYNAR. Mr. Speaker, today's legislative effort, I think, should demonstrate to both Republicans and Democrats the proper deliberative way to solve problems on the floor of the House and in this country. That is in comparison to regrettably growing methods of mob rule, and there-ought-to-be-a-law type of movement. The gentleman from Kansas [Mr. GLICKMAN] and the gentleman from Utah [Mr. HANSEN] are to be commended as others have for their tenacious, dynamic, aggressive, never-say-die attitude to get this issue before us.

□ 1250

But also we should commend the chairman, the gentleman from Texas [Mr. BROOKS], and the gentleman from New York [Mr. FISH], for their sage, patient, and wise judgment in correcting legislation to make sure that it will work properly.

You know, I have been an active supporter of commonsense product liability reform for the better part of my career. But I have never forgotten, and I hope my colleagues will never forget, that we must strike a balance between the manufacturers as well as the consumers. Such a balance was struck with this legislation, because the General Aviation Revitalization Act, as its title suggests, will assist an ailing industry to create new jobs without jeopardizing the public interest.

That is good news for my State of Oklahoma, where we are in need of jobs. That is good news for my State of Oklahoma, where we have manufacturing. That is good news for my State of Oklahoma, because the aviation industry will continue to grow. But most importantly, it is good news for America, because jobs in manufacturing in aviation, a vital industry to this country, will be insured with the passage of this legislation.

I urge all of my colleagues to support this compromise agreement.

I rise today in support of the General Aviation Revitalization Act which has long been championed by my good friend from Kansas, DAN GLICKMAN. S. 1458 is unprecedented in its preemption of State tort law because it would, for the first time, impose a Federal statute of repose limiting suits brought more than a specified time period after the original date of manufacture for general aviation aircraft.

As a longtime supporter of commonsense product liability legislation that balances the needs for both manufacturers and consumers, I have always supported reform legislation that addressed a narrowly defined problem for manufacturers while affording comprehensive protections for consumers. I believe S. 1458 achieves this balance.

The narrowly focused goal of this legislation is to limit the general aviation manufacturers' liability to correct the financial disincentives of litigation which many claim have caused the decline of the general aviation industry. All sides to this debate agree that the House considers this bill in the midst of a long-term decline in the sales of general aviation aircraft and the job loss that accompanies such a decline.

Supporters of the legislation have promised to restart production of single engine, piston-powered airplanes in an attempt to restore our Nation's status as a world leader in aircraft manufacture. For this reason alone, we should give serious consideration to today's legislation.

While jobs are important, especially in my state of Oklahoma, where an already vibrant general aviation industry should be helped by this bill, my role as a policymaker who cares about his constituents forces me to consider whether this bill provides adequate protection for the consumer and all those who could be impacted by legitimate aircraft failures caused by manufacturers.

General aviation aircraft manufacture and maintenance is one of the most heavily federally regulated industries in our Nation. Federal guidelines, inspections, and licensing control almost every phase of aircraft manufacture, flight, and repair. In addition, during the lifespan of an aircraft, almost every major component will be replaced or updated. Because the bill provides for a new repose period each time a new component is installed, anyone who may suffer from a failure of any component would have legal recourse. Finally, the changes made during the Judiciary Committee's consideration of this legislation will help the balance of the bill and improve the legislation as passed by the Senate.

The General Aviation Revitalization Act is narrow enough in scope to ensure that it is a fair way to assist a devastated industry and create jobs without jeopardizing the public interest. I urge my colleagues to support this bill.

Mr. BARCA of Wisconsin. Mr. Speaker, I rise today to express my support for S. 1458, the General Aviation Revitalization Act of 1994, and to express my appreciation to Chairman BROOKS and the members of the Judiciary Committee for their diligent efforts to work through a compromise and bring S. 1458 to the House floor for passage. I would also like to thank Chair MINETA and Chairman OBERSTAR for their leadership in their effort to establish Federal limits on manufacturer's liability.

American Champion Aircraft and Jacobson are both industries in my district that have been hampered by liability that has helped lead to the decline of the general aviation aircraft manufacturing industry. I have heard from many pilots as well as business leaders that sales of general aviation aircraft have dropped from 17,000 planes in 1979 to just 954 planes in 1993 with sales of single engine piston aircraft alone dropping from 14,000 planes to 555 planes. This has resulted in the estimated loss of 20,000 aircraft manufacturing jobs and estimated 80,000 jobs in related aircraft sales and service industries.

This bill establishes a Federal statute of limitations on civil liability of manufacturers of general aviation aircraft. It is my hope that this Congress will be successful in codifying this legislation into law to help the U.S. general aviation manufacturing industry to increase its production of smaller aircraft.

Mrs. UNSOELD. Mr. Speaker, the amended version of S. 1458, the General Aviation Revitalization Act of 1994, passed by the House Judiciary Committee last week represents a compromise that will benefit the aviation industry without undermining safety. I have been working for such a compromise on this issue and am pleased that we seem to have found one.

The bill creates a 15-year statute of repose for piston engine aircraft, 18 years for turbo-powered, and 22 years for jets. There is also an exception for cases involving fraud. Although this legislation breaks new ground in product liability law by imposing a federally-mandated time bar to suits against a manufacturer, the aviation industry is exclusively regulated by the Federal Government and S. 1458 is not about tort reform.

Historically the U.S. aviation industry has led the world in sales and technological advances. Although a statute of repose alone will not return the general aviation industry to prosperity, this act should help to level the playing field with foreign competitors and set the stage for a gradual recovery. In the short term I am pleased that the Cessna Corporation has committed to reopening its piston engine assembly lines. This will create new high-tech, high-paying jobs, not just in Kansas, but around the country as general aviation begins to take off again.

This is a particularly important issue in my district which is home to the Soloy Corporation, a piston engine aircraft manufacturer. Joe Soloy is recognized as an innovator within the U.S. aviation industry, producing such technological achievements as the dual-pack modification kit for the Cessna Caravan. S. 1458 will benefit Joe and others around the country who hope this legislation will lead to an improved business climate, and allow them to pursue with confidence what is not just a business or career, but a passion as well.

I am pleased to support passage of this bill today.

Mr. INHOFE. Mr. Speaker, I have been anticipating this day since 1987 when I was first elected to Congress. As a naive freshman, I believed that once Members understood how uncontrolled product liability claims were killing the general aviation industry, they would support efforts to reform it. So I diligently worked at getting the message out but was frustrated that the bill did not get anywhere even though it enjoyed broad support. I have since learned what happened, the American Trial Lawyers Association did not want to reform product liability for general aviation because it would mean less dollars for them—in short, nothing happened.

Today the full House will finally get a chance to vote on reforming a liability structure that has systematically destroyed the general aviation industry in this country. Passage of S. 1458 means general aviation manufacturing will return and Americans will have an opportunity to once again be employed in high paying aviation jobs. S. 1458 is not just an aviation bill, it is the most significant jobs bill the 103d Congress will consider. Russ Meyer, of Cessna Aircraft, has stated publicly that if product liability reform for general aviation is passed, Cessna will build 2,000 aircraft a year. It is estimated by the General Aviation Manufacturing Association that this bill could mean 25,000 new jobs in the next decade. S.

1458 is a major victory for aviation and for jobs in America.

S. 1458 is also a victory for those who have been supporting process reform. S. 1458 is on the floor today because the threat of successfully discharging it from the Judiciary Committee, where it has languished for 9 years, convinced the chairman of the committee to finally work with us to craft a sensible and reasonable bill.

I applaud all by colleagues who have worked on making S. 1458 a reality: Mr. GLICKMAN, Mr. HANSEN, Chairmen MINETA and OBERSTAR, Mr. SHUSTER and Mr. CLINGER. All of these Members have been supporters of general aviation from the get-go, and have been tireless in their efforts to persuade our colleagues on the Judiciary Committee to work with us to reach this compromise.

I hope that our colleagues in the other body will quickly consider this compromise proposal. I want to be able to go home and let my constituents know that after 9 years Congress has finally acted on their request to allow general aviation manufacturing to once again be an American industry.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1458, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

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

There was no objection.

EXTENDING THE EXPORT ADMINISTRATION ACT OF 1979 UNTIL AUGUST 20, 1994

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4635) to extend the Export Administration Act of 1979.

The Clerk read as follows:

H.R. 4635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking "June 30, 1994" and inserting "August 20, 1994".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BEREUTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

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

Mr. Speaker, the bill provides for a short-term extension of the Export Administration Act of 1979.

The current act expires this week on June 30. The bill we are considering today extends current law until August 20, 1994. It makes no other changes in current law.

On May 25 the Committee on Foreign Affairs reported H.R. 3937, the Omnibus Export Administration Act of 1994, which comprehensively reforms U.S. dual-use export controls.

H.R. 3937 was sequentially referred to five House committees, all of which have completed their work on the bill. The bill's Senate counterpart was reported last week by the Committee on Banking, Finance and Urban Affairs.

Because of the work we have been doing with other committees of jurisdiction and due to the press of business in the House prior to the July 4 district work period, we were not able to bring this comprehensive bill to the House floor this week as we has planned. I am told the other body has similar problems.

For these reasons, we need to extend current law for a very brief period. We expect H.R. 3937 to be scheduled for floor action during the first week after the July 4 break. Senate action is expected at that time as well.

We have made a lot of progress on H.R. 3937 in the last few months. Extending current law until August 20 should provide sufficient time for both Houses to complete consideration and a conference and to send the bill to the President.

Mr. Speaker, I urge adoption of this extension.

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

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

Mr. Speaker, I rise to support consideration of this interim, but very important, authorization for the Export Administration Act through August 20 of this year.

The EAA is the principal law controlling the export of commodities and technology with both military and civilian uses. Under this act, the Department of Commerce has responsibility for the licensing of these dual use goods for export and shares responsibility with the U.S. Customs Service for enforcing controls over these items.

Congress must act expeditiously to ensure that there is no lapse in the legal authorities of the Commerce Department for licensing decisions and enforcement actions in the courts.

In the expectation that the House will very shortly consider the Omnibus Export Administration Act of 1994, overhauling our entire export control system, this short-term extender is intended to give sufficient time for Congress to act on this comprehensive export control legislation.

This Member commends the gentleman from Connecticut [Mr. GEJDENSON], the distinguished chairman of the House Foreign Affairs Trade and Environment Subcommittee, and the gentleman from Wisconsin [Mr. ROTH], the subcommittee's ranking member. Last week, the House Foreign Affairs Committee considered this legislation and sent it before the House without change.

Mr. Speaker, this legislation does not—in any way—amend the Export Administration Act of 1979 except to extend its authority for 51 days. It is important to note that the House Foreign Affairs Committee has been steadfastly working on significant and controversial legislation to reform our outdated export control laws; however, that work is not completely done. Therefore, it is extremely important that the authority to administer our export control laws does not lapse during our consideration of the more significant reform legislation.

Mr. Speaker, by extending the Export Administration Act for only 51 days, we accomplish two important tasks:

First, we maintain our authority to administer the export control laws of the United States.

In the past, Mr. Speaker, we have failed to extend the Export Administration Act and our Presidents have been forced to administer our export control system by Executive order and under the authority of the International Emergency Economic Powers Act [IEEPA].

Unfortunately, however, this residual authority has proven woefully inadequate and legal challenges to the use of emergency authority have seriously jeopardized the President's ability to effectively administer these export control laws.

Mr. Speaker, the seriousness of this potential problem cannot be overstated. If the legal challenges to the President's emergency authority are upheld, the U.S. Government would not be able to enforce its export control laws and proliferators could violate them without penalty. Most importantly, Mr. Speaker, countries like North Korea, Iran, and Libya could obtain extremely sensitive technology from United States exporters and the Federal Government would be without recourse.

Additionally, Mr. Speaker, even if the President's emergency authority were upheld, significant differences exist between the preferred Export Administration Act and the President's emergency authority under IEEPA. For example, emergency authority severely limits civil and criminal penalties for those found in violation of U.S. export control laws, and the investigative powers of the Department of Commerce's special agents are eroded. Finally, and most importantly, the confidentiality of information received

from U.S. businesses who are cooperating with the U.S. Government on export control laws is endangered by the lapsing of section 112(c) of the Export Administration Act.

Mr. Speaker, this simple extension of the Export Administration Act performs yet a second valuable function. By limiting the extension to 51 days, this legislation provides a deadline and therefore an incentive for Congress to pass significant export control law reform legislation.

Mr. Speaker, in March of this year, Cocom, the international agency which coordinates national export control laws, disintegrated and its member countries resorted to policies of national discretion for approving export licenses for sensitive technologies. Meanwhile, the United States' outdated export control laws are estimated to cost U.S. businesses $20 billion annually while disproportionately penalizing our Nation's most promising high-technology goods and service exports.

Clearly, Mr. Speaker, with the demise of Cocom and the United States woefully outdated export control system, we must reach the fundamental conclusion that the United States cannot afford to attempt to unilaterally restrict exports that it cannot control.

Consequently, this Member is hopeful that by extending the Export Administration Act of 1979 for another 51 days, we can then pass appropriately reformed export control legislation.

In the meantime, Mr. Speaker, it would be irresponsible for Congress to force the President to administer the U.S. export control laws under questionable authority. This Member urges his colleagues to suspend the rules and pass H.R. 4635. This legislation is necessary to ensure that U.S. export control laws are enforced while maintaining a short deadline and incentive for Congress to pass significant and carefully crafted export control law reform legislation soon.

Mr. ROTH. Mr. Speaker, as the ranking Republican member of the Subcommittee on Economic Policy, Trade and Environment of the Foreign Affairs Committee, I support enactment of H.R. 4635. This bill will provide a temporary continuation of the current Export Administration Act through August 20.

This temporary measure should provide enough time for us to complete work on pending legislation to rewrite the Export Administration Act. The Foreign Affairs Committee has reported to the House a comprehensive revision of this statute. Several other committees have considered our bill and have reported to the House as well. The House is expected to debate and vote on our bill soon after we return from the upcoming July Fourth District Work Period.

The Foreign Affairs Committee's bill incorporates my reform legislation, H.R. 3412, which I introduced last autumn. It is supported by a national coalition of some 150 high-technology companies, the cream of America's cutting edge industries. Needless to say, I support the committee's reported bill and I anticipate that the House will vote to approve it.

In the other body, similar legislation has been reported by the Banking Committee and is ready for debate and votes.

Therefore, Members should be assured that, with the cooperation of the other body, we are in a position to complete work on revising the act by August 20, under the terms of this temporary extension.

In the interim, we must continue the current law in effect. While we do need a complete revision of this outdated statute, we must not allow any lapse in the authority of the executive branch to enforce our Nation's exports controls. There is no other legally sound statutory authority to fall back on during this interim period. The International Emergency Economic Powers Act does not clearly provide the authority to enforce the full scope of the Export Administration Act.

Therefore, I urge my colleagues to join me in supporting this temporary measure, and to join me in a few weeks in voting for a comprehensive revision of the Export Administration Act when we bring our bill to the House.

Mr. Speaker I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and pass the bill, H.R. 4635.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4635, the bill just passed.

The SPEAKER pro tempo. Is there objection to the request of the gentleman from Indiana?

there was no objection.

FEDERAL ACQUISITION IMPROVEMENT ACT OF 1994

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2238) to amend laws relating to Federal procurement, to authorize functions and activities under the Federal Property and Administrative Services Act of 1949, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Improvement Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Establishment or maintenance of alternative sources of supply.
Sec. 1003. Clarification of approval authority for use of procedures other than full and open competition.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Agency decisions on protests.
Sec. 1017. Award of multiple contracts.

SUBPART C—KINDS OF CONTRACTS

Sec. 1021. Repeal of requirement for secretarial determination regarding use of cost type or incentive contract.

SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

Sec. 1031. Repeal of requirement for annual report by advocates for competition.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Establishment or maintenance of alternative sources of supply.
Sec. 1053. Clarification of approval authority for use of procedures other than full and open competition.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Agency decisions on protests.
Sec. 1067. Award of multiple contracts.

SUBPART C—KINDS OF CONTRACTS

Sec. 1071. Repeal of agency head determination regarding use of cost type or incentive contract.
Sec. 1072. Multiyear contracting authority.
Sec. 1073. Severable services contracts crossing fiscal years.

PART III—ACQUISITIONS GENERALLY

Sec. 1091. Policy regarding consideration of contractor past performance.
Sec. 1092. Repeal of requirement for annual report on competition.
Sec. 1093. Discouragement of nonstandard contract clauses.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Right of United States to examine contractor records.
Sec. 1204. Consistency of time references.
Sec. 1205. Repeal of superseded provision.

PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.

Subtitle C—Research and Development

Sec. 1301. Competition requirement for awards of grants and contracts to nonprofit organizations.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL
Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING
Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Matters to be covered in regulations.
Sec. 1438. Definition of protest.
Sec. 1439. Oversight of acquisition of automatic data processing equipment by Federal agencies.

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS
Sec. 1501. Congressional defense procurement policy.
Sec. 1502. Definitions.
Sec. 1503. Delegation of procurement functions.
Sec. 1504. Determinations and decisions.
Sec. 1505. Restrictions on undefinitized contractual actions.
Sec. 1506. Repeal of requirement relating to production special tooling and production special test equipment.
Sec. 1507. Regulations for bids.

PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Repeals.
Sec. 1555. Cooperative purchasing.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS
Sec. 2001. Contract financing.
Sec. 2002. Repeal of vouchering procedures section.

PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 2051. Contract financing.

PART III—ACQUISITIONS GENERALLY
Sec. 2061. Interest penalty on contract closeout lag-time.

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS
Sec. 2101. Allowable contract costs.
Sec. 2102. Repeal of authority for contract profit controls during emergency periods.

PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 2151. Allowable contract costs.
Sec. 2152. Revision of cost principle relating to entertainment, gift, and recreation costs for contractor employees.

PART III—ACQUISITIONS GENERALLY
Sec. 2161. Travel expenses of government contractors.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS
Sec. 2201. Consolidation and revision of authority to examine records of contractors.

PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 2251. Authority to examine records of contractors.

Subtitle D—Cost Accounting Standards

Sec. 2301. Repeal of obsolete deadline regarding procedural regulations for the Cost Accounting Standards Board.

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

Sec. 2401. Clarification of provision relating to quality control of certain spare parts.
Sec. 2402. Contractor guarantees regarding weapon systems.

Subtitle F—Claims and Disputes

Sec. 2501. Certification of contract claims.
Sec. 2502. Shipbuilding claims.

TITLE III—MAJOR SYSTEMS AND SERVICE SPECIFIC STATUTES

Subtitle A—Major Systems Statutes

Sec. 3001. Weapon development and procurement schedules.
Sec. 3002. Selected Acquisition Report requirement.
Sec. 3003. Unit cost report requirement.
Sec. 3004. Requirement for independent cost estimate and manpower estimate before development or production.
Sec. 3005. Baseline description.
Sec. 3006. Repeal of requirement for competitive prototyping for major programs.
Sec. 3007. Repeal of requirement for competitive alternative sources for major programs.

Subtitle B—Testing Statutes

Sec. 3011. Authorization of less than full-up testing.
Sec. 3012. Limitation on quantities to be procured for low-rate initial production.
Sec. 3013. Operational test and evaluation of defense acquisition programs.

Subtitle C—Civil Reserve Air Fleet

Sec. 3021. Definition of contractor.
Sec. 3022. Consolidation of provisions relating to contractual commitment of aircraft.
Sec. 3023. Use of military installations by contractors.

Subtitle D—Miscellaneous

Sec. 3051. Regulations on procurement, production, warehousing, and supply distribution functions.
Sec. 3052. Repeal of requirements regarding product evaluation activities.
Sec. 3053. Codification and revision of limitation on lease of vessels, aircraft, and vehicles.
Sec. 3054. Repeal of application of Public Contracts Act to certain naval vessel contracts.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD
Sec. 4001. Establishment of simplified acquisition threshold.
Sec. 4002. Federal acquisition computer network architecture.
Sec. 4003. Implementation in Armed Services.
Sec. 4004. Implementation in civilian agencies.

PART II—SIMPLIFICATION OF PROCEDURES
Sec. 4011. Procedures for purchases below micro-purchase threshold.
Sec. 4012. Procurement notice.
Sec. 4013. GAO test and report on performance of simplified acquisition threshold.

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

SUBPART A—GENERALLY
Sec. 4021. Inapplicability of future enacted procurement laws to contracts not exceeding the simplified acquisition threshold.

SUBPART B—ARMED SERVICES ACQUISITIONS
Sec. 4031. Inapplicability of certain provisions of law.
Sec. 4032. Conforming amendments relating to inapplicability of certain provisions of law.

SUBPART C—CIVILIAN AGENCY ACQUISITIONS
Sec. 4041. Inapplicability of certain provisions of law.
Sec. 4042. Conforming amendments relating to inapplicability of certain provisions of law.

SUBPART D—ACQUISITIONS GENERALLY
Sec. 4051. Conformance of certain procurement integrity requirements.
Sec. 4052. Inapplicability of the Drug-Free Workplace Act of 1988.

PART IV—CONFORMING AMENDMENTS
Sec. 4071. Armed Services acquisitions.
Sec. 4072. Civilian agency acquisitions.
Sec. 4073. Office of Federal Procurement Policy Act.

PART V—REVISION OF REGULATIONS
Sec. 4081. Revision required.

Subtitle B—Socioeconomic and Small Business Laws

Sec. 4101. Small business provisions.
Sec. 4102. Payment protections for subcontractors and suppliers.
Sec. 4103. Extension of test program for negotiation of comprehensive small business subcontracting plans.
Sec. 4104. Small Business Procurement Advisory Council.
Sec. 4105. Maximum practicable opportunities for apprentices on Federal construction projects.

Subtitle C—Miscellaneous Acquisition Laws

Sec. 4151. Restriction on use of noncompetitive procedures for procurement from a specified source.
Sec. 4152. Repeal of obsolete provision.

TITLE V—STANDARDS OF CONDUCT

Sec. 5001. Contracting functions performed by Federal personnel.
Sec. 5002. Repeal of executed requirement for study and report.
Sec. 5003. Interests of Members of Congress.
Sec. 5004. Waiting period for significant changes proposed for acquisition regulations.
Sec. 5005. Repeal of superseded and obsolete laws.

TITLE VI—DEFENSE TRADE AND COOPERATION

Sec. 6001. Exception to Buy American Act for micro-purchases.
Sec. 6002. Policy on purchase of foreign goods.

Sec. 6003. Consolidation of miscellaneous procurement limitations.
Sec. 6004. Repeal of obsolete and redundant provisions.

TITLE VII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

Sec. 7001. Definitions.
Sec. 7002. Regulations on acquisition of commercial items.

Subtitle B—Armed Services Acquisitions

Sec. 7101. Establishment of new chapter in title 10.
Sec. 7102. Definitions.
Sec. 7103. Preference for acquisition of commercial items.
Sec. 7104. Exception to cost or pricing data requirements for commercial items.
Sec. 7105. Principle of construction with future laws.
Sec. 7106. Inapplicability of certain provisions of law.
Sec. 7107. Conforming amendments relating to inapplicability of certain provisions of law.

Subtitle C—Civilian Agency Acquisitions

Sec. 7201. Definitions.
Sec. 7202. Preference for acquisition of commercial items.
Sec. 7203. Exception to cost or pricing data requirements for commercial items.
Sec. 7204. Principle of construction with future laws.
Sec. 7205. Inapplicability of certain provisions of law.
Sec. 7206. Conforming amendments relating to inapplicability of certain provisions of law.

Subtitle D—Acquisitions Generally

Sec. 7301. Conforming amendment relating to inapplicability of certain provisions of law.
Sec. 7302. Flexible deadlines for submission of offers of commercial items.
Sec. 7303. Additional responsibilities for advocates for competition.
Sec. 7304. Provisions not affected.
Sec. 7305. Comptroller General review of Federal Government use of market research.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 8001. Test program.
Sec. 8002. Study of participation by certain small businesses in Federal procurement.
Sec. 8003. Furtherance of contract goal for small disadvantaged businesses and certain institutions of higher education.
Sec. 8004. Education and training.
Sec. 8005. Department of Defense acquisition of intellectual property rights.
Sec. 8006. Sense of Congress on negotiated rulemaking.
Sec. 8007. Vendor and employee excellence awards.
Sec. 8008. Codification of accounting requirement for contracted advisory and assistance services.
Sec. 8009. Technical and clerical amendments.

TITLE IX—EFFECTIVE DATES AND REGULATIONS

Sec. 9001. Effective dates.
Sec. 9002. Regulations.
Sec. 9003. Evaluation by the Comptroller General.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 2304(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) A determination under paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

(b) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 2304(b)(1) of such title is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

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

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

(a) CONTENT OF SOLICITATION.—Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i)—

(i) by striking out "(and significant subfactors)" and inserting in lieu thereof "and significant subfactors",

(ii) by inserting after "price-related factors" the following: "and subfactors", and

(iii) by inserting after "nonprice-related factors" the following: "and subfactors"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) The regulations implementing clause (iii) of subparagraph (A) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations.

"(4) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(b) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an agency may apply the amendments made by this section to solicitations issued before the effective date specified in section 9001(a) and to contracts awarded pursuant to those solicitations. The head of the agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 2305(a) of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Paragraph (3) of section 2305(b) of title 10, United States Code, is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within three days after the date of contract

award, the head of the agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (4)(B) of such section is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within three days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within five days after the date of receipt of notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The head of the agency shall debrief the offeror within, to the maximum extent practicable, five days after receipt of the request by the agency.

"(B) Such debriefing shall include, at a minimum, the following:

"(i) The agency's evaluation of the significant weak or deficient factors in the offeror's offer.

"(ii) The overall evaluated cost of the offer of the offeror awarded the contract and the overall evaluated cost of the offer of the debriefed offeror.

"(iii) The overall ranking of all offers and the total technical and cost scores of all offers.

"(iv) A summary of the rationale for the award.

"(v) In the case of an offer by the debriefed offeror that includes a commercial item that is an end item under the contract, the makes and models of similar commercial items included in the offer of the offeror awarded the contract.

"(vi) Reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing shall not include point-by-point comparisons of the debriefed offeror's offer with other offers and shall not disclose any information that is exempt from disclosure under section 552 of title 5.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AGENCY DECISIONS ON PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) DECISIONS ON PROTESTS.—If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

SEC. 1017. AWARD OF MULTIPLE CONTRACTS.

Section 2305 of title 10, United States Code, as amended by section 1016, is further amended by adding at the end the following new subsection:

"(g) AWARD OF MULTIPLE CONTRACTS.—In procuring any supply or service using competitive procedures, the head of an agency may award more than one contract for the same supply or service in any case in which the head of the agency determines that it is in the best interests of the Federal Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

Subpart C—Kinds of Contracts

SEC. 1021. REPEAL OF REQUIREMENT FOR SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) A determination under paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

(b) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 303(b)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

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

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1), by amending subparagraph (A) to read as follows:

"(A) all significant factors and significant subfactors which the executive agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost- or price-related factors and subfactors, and noncost- or nonprice-related factors and subfactors); and";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an executive agency—

"(A) shall clearly establish the relative importance assigned to the evaluation factors

and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) The regulations implementing subparagraph (C) of paragraph (1) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations.

"(3) Nothing in this subsection prohibits an executive agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(b) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An executive agency shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary."; and

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2).

(c) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the effective date specified in section 9001(a) and to contracts awarded pursuant to those solicitations. The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An executive agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the executive agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within 3 days after the date of contract award, the executive agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of such section, as redesignated by section 1061(b)(3)(B), is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the executive agency within 5 days after the date of receipt of notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The executive agency shall debrief the offeror within, to the maximum extent practicable, 5 days after receipt of the request by the executive agency.

"(2) Such debriefing shall include, at a minimum, the following:

"(A) The executive agency's evaluation of the significant weak or deficient factors in the offeror's offer.

"(B) The overall evaluated cost of the offer of the offeror awarded the contract and the overall evaluated cost of the offer of the debriefed offeror.

"(C) The overall ranking of all offers and the total technical and cost scores of all offers.

"(D) A summary of the rationale for the award.

"(E) In the case of an offer by the debriefed offeror that includes a commercial item that is an end item under the contract, the makes and models of similar commercial items included in the offer of the offeror awarded the contract.

"(F) Reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing shall not include point-by-point comparisons of the debriefed offeror's offer with other offers and shall not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following new subsection:

"(h) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AGENCY DECISIONS ON PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) DECISIONS ON PROTESTS.—If, in connection with a protest, an executive agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the executive agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

SEC. 1067. AWARD OF MULTIPLE CONTRACTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1066, is further amended by adding at the end the following new subsection:

"(j) AWARD OF MULTIPLE CONTRACTS.—In procuring any supply or service using competitive procedures, an executive agency may award more than one contract for the same supply or service in any case in which the executive agency determines that it is in the best interests of the Federal Government to award those contracts for the purpose of maintaining a continuous source for the supply or service.".

Subpart C—Kinds of Contracts

SEC. 1071. REPEAL OF AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 304 the following new section:

"SEC. 304A. MULTIYEAR CONTRACTS.

"(a) AUTHORITY.—An executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract;

"(2) the executive agency determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging full and open competition or promoting economy in administration, performance, and operation of the agency's programs; and

"(3) such contract is awarded on a fully competitive basis.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) CANCELLATION CEILING NOTICE.—Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $10,000,000 may be awarded, the executive agency shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Congress, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(d) MULTIYEAR CONTRACT DEFINED.—For the purposes of this section, a multiyear contract is a contract for the purchase of property or services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(e) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"SEC. 303H. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS.

"(a) AUTHORITY.—An executive agency may enter into a severable contract for procurement of services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) AVAILABILITY OF FUNDS.—To the extent provided in appropriations Acts, funds obligated for a contract entered into under the authority of subsection (a) shall remain available until no longer needed to pay for such contract.

"(c) SEVERABLE CONTRACT DEFINED.—In this section, the term 'severable contract' means a contract that contains a clause that makes the effectiveness of the contract for periods after the end of the fiscal year in which the performance of the contract begins subject to the availability of appropriations.".

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

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

"(14) establishing policies and procedures that encourage the consideration of contractors' past performance in the selection of contractors.".

(b) GUIDANCE REQUIRED.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that offerors are afforded an opportunity to submit information on past contract performance and that such information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies the policy regarding the period for which information on past performance of offerors may be maintained and considered.

"(4) In the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

SEC. 1093. DISCOURAGEMENT OF NONSTANDARD CONTRACT CLAUSES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 29. NONSTANDARD CONTRACT CLAUSES.

"The Federal Acquisition Regulatory Council shall promulgate regulations to discourage the use of a nonstandard contract clause on a repetitive basis. The regulations shall include provisions that—

"(1) clearly define nonstandard clauses; and

"(2) require prior approval for the use of a nonstandard clause on a repetitive basis by an official at a level of responsibility above the contracting officer.".

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) DOLLAR THRESHOLD STABILIZATION FOR OFFERORS FOR PRIME CONTRACTS.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENT OF DOLLAR THRESHOLD.—Such section is further amended by adding at the end the following new paragraph:

"(7) The dollar amount in each of subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) This section shall not be applied to a contract or subcontract, or a modification to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Federal Government purposes, as the case may be, that are sold in sufficient quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall preclude the consideration of sales to the Federal Government, including the percentage of an item's overall sales that are made to the Federal Government, when determining whether the item has been sold in sufficient quantities to the public.".

(b) LIMITATION ON AUTHORITY.—Subsection (c) of such section is amended to read as follows:

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement. The head of the procuring activity may not require such data to be submitted under this subsection for any contract or subcontract, or modification to a contract or subcontract, covered by the exceptions in subsection (b). The head of the procuring activity may not delegate the functions under this subsection.".

SEC. 1203. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Subsection (f) of section 2306a of title 10, United States Code, is amended to read as follows:

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the authority provided by section 2313(a)(2) of this title.".

SEC. 1204. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, is amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (d)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties" after "(or price of the modification)"; and

(2) in subsection (g), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1205. REPEAL OF SUPERSEDED PROVISION.

Subsection (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304A, as added by section 1072, the following new section:

"SEC. 304B. COST OR PRICING DATA: TRUTH IN NEGOTIATIONS.

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) An executive agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Improvement Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, the price of the contract to the United States is expected to exceed $500,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the procuring activity concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(2) shall be considered as having been required to make available cost or pricing data under this section.

"(6) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Improvement Act of 1994, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(7) The dollar amount in each of subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).

"(b) EXCEPTIONS.—(1) This section shall not be applied to a contract or subcontract, or a modification to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Federal Government purposes, as the case may be, that are sold in sufficient quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall preclude the consideration of sales to the Federal Government, including the percentage of an item's overall sales that are made to the Federal Government, when determining whether the item has been sold in sufficient quantities to the public.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement. The head of the procuring activity may not require such data to be submitted under this subsection for any contract or subcontract, or modification to a contract or subcontract, covered by the exceptions in subsection (b). The head of the procuring activity may not delegate the functions under this subsection.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant

amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, an executive agency shall have the authority provided by section 304C(a)(2).

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such terms do not include information that is judgmental, but does include the factual information from which a judgment was derived.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

Subtitle C—Research and Development

SEC. 1301. COMPETITION REQUIREMENT FOR AWARDS OF GRANTS AND CONTRACTS TO NONPROFIT ORGANIZATIONS.

Subsections (a) and (b) of section 2361 of title 10, United States Code, are amended by inserting "or nonprofit organization other than a federally funded research and development center (FFRDC)" after "college or university" each place it appears.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

(a) IN GENERAL.—Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) The term 'protest' means a written objection by an interested party to any of the following:

"(A) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(B) The cancellation of such a solicitation or other request.

"(C) An award or proposed award of such a contract.

"(D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.".

(b) TECHNICAL AMENDMENTS.—Section 3551 of such title is further amended—

(1) in paragraph (2)—

(A) by inserting "The term" after "(2)"; and

(B) by striking out "; and" and inserting in lieu thereof a period; and

(2) in paragraph (3), by inserting "The term" after "(3)".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "15 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance was authorized in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "120 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "60 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

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

"(3) An amendment to a protest that adds a new ground of protest, if timely raised, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is further amended in subsection (b) by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 days after the end of such 60-day period.".

(2) FEDERAL AGENCY PAYMENT OF COSTS.—Subsection (c) of such section is amended to read as follows:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly out of funds available to or for the use of the Federal agency; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay.".

(3) REPORT.—Subsection (e) of such section is amended to read as follows:

"(e)(1) In any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c), the Comptroller General shall promptly submit a report on the matter to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives. The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 120 days after the date the protest is submitted to the Comptroller General.".

(4) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the date of the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before such date, be paid promptly out of funds available to or for the use of the Federal agency.

(c) RECOVERY OF COSTS FOR FRIVOLOUS PROTESTS.—Section 3554 of title 31, United States Code, is further amended by adding at the end the following new subsection:

"(f) If the Comptroller General expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, the Comptroller may recommend that the protester or other interested party who joins the protest be liable to the United States for payment of all or that portion of the United States costs, for which such a finding is made, of reviewing the protest, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in defending the protest. The Federal Acquisition Regulation shall provide guidance under which the head of an agency may initiate action to obtain such costs, unless (A) special circumstances would make such payment unjust, or (B) the protester obtains documents or other information for the first time, after the protest is filed with the Comptroller General, which establishes that the protest or a portion is frivolous or has not been brought in good faith and the protester then promptly withdraws the protest or portion of the protest.".

(d) RESTRICTION ON ACCESS TO CERTAIN INFORMATION.—Section 3553(f) of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2)(A) The Comptroller General may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to a person under paragraph (1), that prohibit or restrict the disclosure by the person of information described in subparagraph (C) that is contained in such a document.

"(B) The penalties specified under section 27(i) of the Office of Federal Procurement Policy Act shall apply to the disclosure of information described in subparagraph (C) in violation of a term, condition, or restriction in a protective order under this paragraph by a person that is subject to the protective order.

"(C) Information referred to in subparagraphs (A) and (B) is procurement sensitive information, trade secrets, or other proprietary or confidential research, development, or commercial information.

"(D) A protective order under this paragraph shall not be considered to authorize the withholding of any document or information from the Congress or an executive agency.".

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by

striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting before the period at the end of the third sentence the following: ", including the authority to revoke a delegation of authority with respect to a particular contract after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—(1) Section 111(f)(2)(B) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(2)(B)) is amended—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting "(i)" after "(B)"; and

(C) by adding at the end the following:

"(ii) A suspension under this subparagraph shall not preclude the Federal agency concerned from continuing the procurement process up to but not including award of the contract if the Board determines such action is in the best interests of the United States.".

(2) Section 111(f) of such Act (40 U.S.C. 759(f)) is amended in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

"(I) the tenth day after the date of contract award; or

"(II) the fifth day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.

"(D) The board may impose appropriate procedural sanctions, including dismissal of the protest, if the board determines that the board's process has been willfully abused during the course of a protest.

"(E) If the board makes a determination under subparagraph (C), the board may impose appropriate sanctions. Such sanctions may include imposition of liability on the protester, or other interested party who joins the protest, for payment to the United States of all or that portion of the United States costs, for which such a finding is made, of reviewing the protest, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28, United States Code) incurred by the United States in defending the protest. The Federal Acquisition Regulation shall provide guidance under which the head of an agency may initiate action to obtain such costs, unless (i) special circumstances would make such payment unjust, or (ii) the protester obtains documents or other information for the first time, after the protest is filed with the board, which establishes that the protest or a portion is frivolous or has been brought in bad faith and the protester then promptly withdraws the protest or portion of the protest.".

SEC. 1435. AWARD OF COSTS.

(a) AWARD.—Section 111(f)(5) of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation.".

(b) DEFINITION OF PREVAILING PARTY.—Section 111(f)(9) of such Act (40 U.S.C. 759(f)(9)) is amended by adding at the end the following:

"(C) The term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)), as amended by section 1435, is further amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is further amended—

(1) by inserting after paragraph (6) the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions make the board or Federal agency inaccessible, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records."; and

(2) by striking out paragraph (8).

SEC. 1438. DEFINITION OF PROTEST.

Section 111(f)(9) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) The term 'protest' means a written objection by an interested party to any of the following:

"(i) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(ii) The cancellation of such a solicitation or other request.

"(iii) An award or proposed award of such a contract.

"(iv) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract."; and

(2) by capitalizing the first letter of the first word in subparagraph (B).

SEC. 1439. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h) DATA COLLECTION.—(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with regard to each procurement the following:

"(A) The procuring agency.

"(B) The contractor.

"(C) The automatic data processing equipment and services procured.

"(D) The manufacturer of the equipment procured.

"(E) The amount of the contract, to the extent that the amount is not proprietary information.

"(F) The type of contract used.

"(G) The extent of competition for award.

"(H) Compatibility restrictions.

"(I) Significant modifications of the contract.

"(J) Contract price, to the extent that the price is not proprietary information.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

"(3) The Administrator—

"(A) shall carry out a systematic, periodic review of information received under this subsection;

"(B) shall use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

"(C) may take appropriate corrective action regarding an agency's authority to lease and purchase automatic data processing equipment upon any substantial failure by the head of the agency to report to the Administrator in accordance with this subsection.

"(4) The Administrator shall take appropriate corrective action upon failure of a Federal agency to comply with the terms of any delegation of authority to lease or purchase automatic data processing equipment or failure to comply with any applicable law or regulation.

"(5) The Administrator shall require in the regulations implementing this subsection that (A) data collected pursuant to this subsection be drawn from existing Federal agency information; and (B) no new or additional information reporting requirements may be imposed on offerors or contractors to collect such data.".

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. CONGRESSIONAL DEFENSE PROCUREMENT POLICY.

Section 2301 of title 10, United States Code, is amended to read as follows:

"§ 2301. Congressional defense procurement policy

"(a) The Congress finds that in order to ensure national defense preparedness; conserve fiscal resources; enhance science and technology, research and development, and production capability; provide for continued development and preservation of an efficient and responsive defense industrial base; and ensure the financial and ethical integrity of defense procurement programs, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner consistent with achieving an optimum balance among efficient processes, full and open access to the procurement system, and sound implementation of socioeconomic policies. It is therefore the policy of Congress that—

"(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

"(2) to the maximum extent practicable, the Department of Defense shall acquire commercial items to meet its needs and shall require prime contractors and subcontractors, at all levels, which furnish other than commercial items, to incorporate to the maximum extent practicable commercial items as components of items being supplied to the Department;

"(3) when commercial items and components are not available, practicable, or cost effective, the Department of Defense shall acquire, and shall require prime contractors and subcontractors to incorporate, nondevelopmental items and components to the maximum extent practicable;

"(4) property and services for the Department of Defense may be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States and will provide for appropriate allocation of risk between the Government and the contractor with due regard to the nature of the property or services to be acquired;

"(5) contracts, when appropriate, shall provide incentives to contractors to improve productivity through investment in capital facilities, equipment, flexible manufacturing processes, and advanced and dual-use technology;

"(6) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;

"(7) procurement protests and disputes shall be fairly and expeditiously resolved through uniform interpretation of relevant laws and regulations;

"(8) the head of an agency shall use advance procurement planning and market research and develop contract requirements in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired, but may restrict competitions to suppliers of commercial items to foster accomplishment of this objective; and

"(9) the head of an agency shall develop and maintain an acquisition career management program to ensure a professional acquisition work force in accordance with the requirements of chapter 87 of this title.

"(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall, in accordance with the requirements of this title—

"(1) be issued in accordance with and conform to the requirements of sections 22 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b and 421);

"(2) promote and implement the Congressional policies in subsection (a) and in section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401);

"(3) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

"(4) promote responsiveness of the procurement system to agency needs by—

"(A) simplifying and streamlining procurement processes, and

"(B) providing incentives to encourage contractors to take actions and make recommendations that would reduce the costs of property or services to be acquired;

"(5) facilitate the acquisition of commercial items and commercial components at or based on commercial market prices, without requiring contractors to change their business practices; and

"(6) promote the acquisition and use of commercial items, commercial components, and nondevelopmental items by requiring descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

"(c) Further, it is the policy of Congress that purchases and contracts entered into under this chapter should be placed with small business concerns and concerns that are small disadvantaged businesses in conformance with section 2323 of this title and subsection (g) of section 15 of the Small Business Act (15 U.S.C. 644).

"(d) It is also the policy of Congress that qualified nonprofit agencies for the blind or severely handicapped (as defined in section 2410d(b) of this title) shall be afforded the maximum practicable opportunity to provide approved commodities and services (as defined in such section) as subcontractors and suppliers under contracts awarded by the Department of Defense.".

SEC. 1502. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3) and (7);

(2) by redesignating paragraph (6) as paragraph (12);

(3) by redesignating paragraphs (2), (4), and (5) as paragraphs (5), (8), and (9), respectively;

(4) by inserting after paragraph (1) the following new paragraphs:

"(2) The term 'procurement' has the same meaning provided such term in section 4(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(2)).

"(3) The term 'procurement system' has the same meaning provided such term in section 4(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(3)).

"(4) The term 'standards' has the same meaning provided such term in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)). ";

(5) by inserting after paragraph (5) (as so redesignated) the following new paragraphs:

"(6) The term 'full and open competition' has the same meaning provided such term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

"(7) The term 'responsible source' has the same meaning provided such term in section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)). "; and

(6) by inserting after paragraph (9) (as so redesignated) the following new paragraphs:

"(10) The terms 'item', 'item of supply', and 'supplies' have the meaning provided in section 4(10) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

"(11) The term 'simplified acquisition threshold' has the meaning provided that term in section 4A of the Office of Federal Procurement Policy Act.

"(12) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided those terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

SEC. 1503. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—(1) Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Assignment and delegation of procurement functions and responsibilities

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2311 and inserting in lieu thereof the following:

"2311. Assignment and delegation of procurement functions and responsibilities.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1504. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less 6 years after the date of the determination or decision.".

SEC. 1505. RESTRICTIONS ON UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection heading, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Subsection (g)(1)(B) of such section is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1506. REPEAL OF REQUIREMENT RELATING TO PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1507. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259) is amended by adding at the end the following new subsections:

"(d) The term 'simplified acquisition threshold' has the meaning provided that term by section 4A of the Office of Federal Procurement Policy Act.

"(e) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided such terms by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1301, is further amended by adding at the end the following new section:

"SEC. 312. ASSIGNMENT AND DELEGATION OF PROCUREMENT FUNCTIONS AND RESPONSIBILITIES.

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an executive agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) the head of an executive agency may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by adding at the end the following new section:

"SEC. 313. DETERMINATIONS AND DECISIONS.

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(c) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The executive agency making such finding shall maintain a copy of the finding for not less 6 years after the date of the determination or decision.".

SEC. 1554. REPEALS.

The laws of the United States are amended to read as if the following sections of law had not been enacted:

(1) Section 630 of Public Law 102–393.

(2) Section 401 of Public Law 103–123.

SEC. 1555. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of

1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules of the General Services Administration by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The District of Columbia.

"(iii) The Commonwealth of Puerto Rico.

"(iv) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(C) In any case in which an entity listed in subparagraph (A) uses a Federal supply schedule, the Administrator shall require the entity to reimburse the General Services Administration for any administrative costs of using the schedule.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act, the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(iii) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46-48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77).".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b);

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c);

(5) by inserting "CONDITIONS FOR PROGRESS PAYMENTS.—" after "(d)" in subsection (d); and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(g) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) TERMINOLOGY CORRECTION.—Such section is further amended in subsection (a)(2) by striking out "bid".

(c) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section is further amended in subsection (c) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(d) CONDITIONS FOR PROGRESS PAYMENTS.—Such section is further amended in subsection (d)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(e) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—Such section is further amended by inserting after subsection (d) the following new subsection (e):

"(e) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the head of the agency determines are appropriate or customary in the commercial marketplace. The head of the agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (c) and (d) do not apply to payments made for commercial items in accordance with this subsection.".

(f) NAVY CONTRACTS.—Such section is further amended by inserting after subsection (e), as added by subsection (e) of this section, the following new subsection (f):

"(f) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of a firm considered to be a small business; and

"(B) 90 percent, in the case of any other firm.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(h) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) PARTIAL PAYMENTS UNDER NAVY CONTRACTS—

(A) REPEAL.—Section 7521 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

(4) NAVY RESEARCH CONTRACTS.—Section 7522 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

SEC. 2002. REPEAL OF VOUCHERING PROCEDURES SECTION.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and the section designation and inserting in lieu thereof the following:

"SEC. 305. CONTRACT FINANCING.";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b); and

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c).

(b) TERMINOLOGY CORRECTION.—Such section is further amended in subsection (a)(2) by striking out "bid".

(c) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section is further amended in subsection (c) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without

filing, notice, or any other action by the United States".

(d) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—

(1) IN GENERAL.—Such section is further amended by adding at the end the following new subsections:

"(d) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The executive agency shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the executive agency determines necessary to permit the executive agency to carry out the preceding sentence.

"(2) The executive agency shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the executive agency has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(e) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the executive agency determines are appropriate or customary in the commercial marketplace. The executive agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (c) and (d) do not apply to payments made for commercial items in accordance with this subsection.

"(f) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the executive agency reduce or suspend further payments to such contractor.

"(2) An executive agency receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the executive agency may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an executive agency under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the executive agency whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the executive agency in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each executive agency shall prescribe procedures to ensure that, before the executive agency decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the executive agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an executive agency reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the executive agency whether the suspension or reduction should continue.

"(7) Each executive agency who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An executive agency may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendment made by paragraph (1) is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

PART III—ACQUISITIONS GENERALLY

SEC. 2061. INTEREST PENALTY ON CONTRACT CLOSE-OUT LAG-TIME.

Section 3903(a)(1) of title 31, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by inserting "or" after the semicolon at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) in any case in which the Government delays making final payment under the contract for more than one year after the date on which the contractor completes all obligations under the contract (including submission to the Government of final incurred costs for all years covered by the contract), the date on which the contractor completes such obligations;".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) EXTENSION OF COVERAGE TO COAST GUARD AND NASA; OTHER MISCELLANEOUS AMENDMENTS.—Section 2324 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting after "(a)" the following: "INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—";

(B) by striking out "Secretary of Defense" and inserting in lieu thereof "head of an agency";

(C) by striking out "Department of Defense" and inserting in lieu thereof "agency"; and

(D) by striking out "the Department of Defense Supplement" and inserting in lieu thereof "applicable agency supplement".

(2) Subsection (b) is amended—

(A) by inserting after "(b)" the following: "PENALTY FOR VIOLATION OF COST PRINCIPLE.—";

(B) in subparagraph (B) of paragraph (1) by striking out "regulations issued by the Secretary" and inserting in lieu thereof "provisions in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary" each place it appears and inserting in lieu thereof "head of the agency".

(3) Subsection (c) is amended—

(A) by inserting after "(c)" the following: "WAIVER OF PENALTY.—"; and

(B) by striking out "The Secretary shall prescribe regulations providing" in the first sentence and inserting in lieu thereof "The Federal Acquisition Regulation shall provide".

(4) Subsection (d) is amended—

(A) by inserting after "(d)" the following: "APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—"; and

(B) by striking out "the Secretary" and inserting in lieu thereof "the head of an agency".

(5) Subsection (e) is amended—

(A) by inserting after "(e)" the following: "SPECIFIC COSTS NOT ALLOWABLE.—";

(B) in subparagraph (D) of paragraph (1), by striking out "regulations of the Secretary of Defense" and inserting in lieu thereof "provisions of the Federal Acquisition Regulation";

(C) in subparagraph (M) of paragraph (1), by striking out "regulations prescribed by the Secretary of Defense" and inserting in lieu thereof "the Federal Acquisition Regulation";

(D) in subparagraph (A) of paragraph (2), by inserting "of Defense" after "Secretary" the first place it occurs;

(E) in subparagraph (C) of paragraph (2), by striking out "head of the agency" in the first sentence and inserting in lieu thereof "Secretary of Defense";

(F) in subparagraph (A) of paragraph (3), by striking out "regulations prescribed by the Secretary" and inserting in lieu thereof "the Federal Acquisition Regulation"; and

(G) by amending paragraph (4) to read as follows:

"(4) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications.".

(6) Subsection (f) is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" and all that follows through "The amendments" and inserting in lieu thereof the following: "REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions", and

(ii) by striking out "These regulations" and inserting in lieu thereof "The regulations"; and

(B) in paragraphs (2), (3), and (4)—

(i) by striking out "defense" before "contract auditor" each place it appears, and

(ii) by striking out "regulation" each place it appears and inserting in lieu thereof "Federal Acquisition Regulation".

(7) Subsection (g) is amended to read as follows:

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.".

(8) Subsection (h) is amended—

(A) by inserting after "(h)" the following: "CONTRACTOR CERTIFICATION REQUIRED.—";

(B) by striking out "by the Secretary" in paragraph (1) and inserting in lieu thereof "in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary of Defense" in paragraph (2) and inserting in lieu thereof "head of the agency".

(9) Subsection (i) is amended by striking out "The submission to the Department of Defense" and inserting in lieu thereof "PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an agency".

(10) Subsection (j) is amended—

(A) by inserting after "(j)" the following: "CONTRACTOR TO HAVE BURDEN OF PROOF.—"; and

(B) by striking out "United States Claims Court" and inserting in lieu thereof "United States Court of Federal Claims".

(11) Subsection (k) is amended—

(A) by inserting after "(k)" the following: "PROCEEDING COSTS NOT ALLOWABLE.—";

(B) in paragraph (2), by striking out "decision by the Department of Defense—" and inserting in lieu thereof "decision—"; and

(C) in paragraph (4)—

(i) by inserting after "head of the agency" the following: "or Secretary of the military department concerned",

(ii) by striking out "under regulations prescribed by such agency head" and inserting in lieu thereof "in accordance with the Federal Acquisition Regulation",

(iii) by inserting "or Secretary" after "agency head", and

(iv) by inserting before the period at the end the following: "or military department".

(b) COVERED CONTRACT DEFINED.—Such section is further amended by striking out subsections (l) and (m) and inserting in lieu thereof the following:

"(l) DEFINITIONS.—In this section:

"(1)(A) The term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the head of an agency, except that such term does not include a fixed-price contract without cost incentives or any contract for the purchase of commercial items.

"(B) The dollar amount in subparagraph (A) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).

"(2) The term 'head of the agency' or 'agency head' does not include the Secretary of a military department.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

(c) REGULATIONS.—The regulations of the Secretary of Defense implementing section 2324 of title 10, United States Code, shall remain in effect until the Federal Acquisition Regulation is revised to implement the amendments made by this section.

SEC. 2102. REPEAL OF AUTHORITY FOR CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"SEC. 306. ALLOWABLE COSTS.

"(a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—An executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation (referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) or an executive agency supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the executive agency determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the executive agency shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on provisions in the Federal Acquisition Regulation) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the executive agency determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the executive agency shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—The Federal Acquisition Regulation shall provide for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an executive agency under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable provisions of the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by

the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Pursuant to the Federal Acquisition Regulation and subject to the availability of appropriations, an executive agency, in awarding a covered contract, may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the executive agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) An executive agency shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the executive agency will consider granting such a waiver, and, if the executive agency will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) An executive agency shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications. Any submission by a contractor of costs which are incurred by the contractor and which are claimed to be allowable under Department of Energy management and operating contracts shall be considered a 'proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued', as used in this section.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, a contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of a contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed in the Federal Acquisition Regulation.

"(2) An executive agency may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default, by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the executive agency determines, in accordance with the Federal Acquisition Regulation, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the executive agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under

this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) COVERED CONTRACT DEFINED.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives or any contract for the purchase of commercial items.

"(2) The dollar amount in paragraph (1) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $10,000).".

SEC. 2152. REVISION OF COST PRINCIPLE RELATING TO ENTERTAINMENT, GIFT, AND RECREATION COSTS FOR CONTRACTOR EMPLOYEES.

(a) COSTS NOT ALLOWABLE.—The costs of entertainment, gifts, or recreation for employees of a contractor or members of their families that are provided by the contractor to improve employee morale or performance or for any other purpose are not allowable under a covered contract unless, within 120 days of the date of the enactment of this Act, the Federal Acquisition Regulatory Council prescribes amendments to the Federal Acquisition Regulation specifying circumstances under which such costs are allowable under a covered contract. At a minimum, such amendments shall ensure that costs specifically not allowable under the entertainment cost principle (FAR 31.205–14) are not allowable under any other cost principle.

(b) DEFINITIONS.—In this section:

(1) The term "employee" includes officers and directors of a contractor.

(2) The term "covered contract" has the meaning given such term in section 2324(l) of title 10, United States Code (as amended by section 2101(b)), or section 306(l) of the Federal Property and Administrative Services Act of 1949 (as added by section 2151).

(c) EFFECTIVE DATE.—The provisions of subsection (a), including any amendments to the Federal Acquisition Regulation prescribed under that subsection, shall take effect in accordance with section 9001.

PART III—ACQUISITIONS GENERALLY

SEC. 2161. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended by inserting after "Under any contract" the following: "requiring submission of cost or pricing data or the negotiation of final indirect costs".

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§ 2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—(1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) DCAA SUBPOENA AUTHORITY.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of any records of a contractor that the Secretary of Defense is authorized to audit or examine under subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(d) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(e) LIMITATION.—The authority of the head of an agency under subsection (a), and the authority of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) FORMS OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(h) USE OF IMAGES OF ORIGINAL RECORDS.—The head of an agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(i) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(2), is further amended by inserting after section 304B the following new section:

"SEC. 304C. EXAMINATION OF RECORDS OF CONTRACTOR.

"(a) AGENCY AUTHORITY.—(1) The head of an executive agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an executive agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304B with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the executive agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the executive agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(c) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—An executive agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(d) LIMITATION.—The authority of an executive agency under subsection (a), and the authority of the Comptroller General under subsection (b), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(e) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(f) FORM OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(g) USE OF IMAGES OF ORIGINAL RECORDS.—An executive agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(h) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

SEC. 2401. CLARIFICATION OF PROVISION RELATING TO QUALITY CONTROL OF CERTAIN SPARE PARTS.

The second sentence of subsection (a) of section 2383 of title 10, United States Code, is amended to read as follows: "In establishing the appropriate qualification requirements, the Secretary of Defense shall use the Department of Defense qualification requirements that were used to qualify the original production part unless the Secretary determines in writing—

"(1) that there are other requirements sufficiently similar to those requirements that should be used instead; or

"(2) that any or all such requirements are unnecessary.".

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

(a) REPEAL OF REQUIREMENT FOR REPORT ON WAIVERS.—Subsection (e) of section 2403 of title 10, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(b) PROVISIONS TO BE ADDRESSED BY REGULATIONS.—Subsection (h) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

Subtitle F—Claims and Disputes

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DOD CERTIFICATION REQUIREMENT IN CONFLICT WITH GOVERNMENT-WIDE REQUIREMENT.—

(1) REPEAL.—Section 2410 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410.

(b) REPEAL OF SUPERSEDED PROVISION.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2453), is repealed.

(c) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—Section 2410e of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

SEC. 2502. SHIPBUILDING CLAIMS.

(a) INCREASE IN TIME PERIOD DURING WHICH ADJUSTMENTS TO SHIPBUILDING CLAIMS MAY BE MADE.—Section 2405 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "entered into after December 7, 1983,"; and

(B) by striking out "occurring more than 18 months before the submission of the claim, request, or demand." and inserting in lieu thereof the following: "occurring—

"(1) in the case of a contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Improvement Act of 1994, more than 18 months before the submission of the claim, request, or demand; and

"(2) in the case of a contract entered into on or after the date of the enactment of the Federal Acquisition Improvement Act of 1994, more than 6 years before the submission of the claim, request, or demand.".

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is repealed.

TITLE III—MAJOR SYSTEMS AND SERVICE SPECIFIC STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. WEAPON DEVELOPMENT AND PROCUREMENT SCHEDULES.

(a) DEADLINE AND PURPOSE.—Subsection (a) of section 2431 of title 10, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "at the same time" and inserting in lieu thereof "not later than 45 days after"; and

(B) by striking out "a written report" and inserting in lieu thereof "budget justification documents"; and

(2) in the second and third sentences, by striking out "report" and inserting in lieu thereof "documents".

(b) ADDITIONAL MATTERS TO BE INCLUDED.—Subsection (b) of such section is amended—

(1) by striking out "include—" and inserting in lieu thereof "include each of the following:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1), (2), and (3);

(3) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by amending paragraph (4) to read as follows:

"(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

"(B) In this paragraph:

"(i) The term 'most efficient production rate' means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

"(ii) The term 'minimum sustaining rate' means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.".

SEC. 3002. SELECTED ACQUISITION REPORT REQUIREMENT.

(a) DEFINITION OF PROCUREMENT UNIT COST.—

(1) DEFINITION.—Paragraph (2) of section 2432(a) of title 10, United States Code, is amended—

(A) in clause (A), by striking out "for a fiscal year" and all that follows through "such program in such fiscal year";

(B) in clause (B), by striking out "with such funds during such fiscal year." and inserting in lieu thereof a period; and

(C) by striking out the last sentence.

(2) CONFORMING AMENDMENTS.—Section 2433 of such title is amended—

(A) in subparagraph (B) of subsection (c)(1), by striking out "current" before "procurement unit cost";

(B) in subsection (d), by striking out "current" before "procurement unit cost" each place it appears; and

(C) in subsection (e), by striking out "current" before "procurement unit cost" both places it appears.

(b) EXCLUSION OF FIRM, FIXED-PRICE CONTRACTS.—Subsection (a) of section 2432 of such title is amended in paragraph (3) by inserting before the period at the end the following: "and that is not a firm, fixed price contract".

(c) DEFINITION OF FULL LIFE-CYCLE COST.—Such subsection is further amended in paragraph (4) by striking out "has the meaning" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.".

(d) NOTICE OF PROPOSED CHANGES IN SAR.—Subsection (c) of such section is amended in paragraph (2) by striking out the second sentence and inserting in lieu thereof the following: "Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.".

(e) ELIMINATION OF CERTAIN SAR REQUIREMENTS.—Such subsection is further amended in paragraph (3) by striking out subparagraph (C).

(f) UNIFORM IMPLEMENTATION OF LIFE-CYCLE COST ANALYSIS.—Such subsection is further amended—

(1) by striking out paragraph (5); and

(2) by adding at the end of subparagraph (A) of paragraph (3) the following: "The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.".

(g) DEADLINE REVISION.—Subsection (f) of such section is amended by striking out "60 days" in the first sentence and inserting in lieu thereof "45 days".

(h) ELIMINATION OF PRELIMINARY REPORT.—Such subsection is further amended by striking out the second sentence.

(i) TERMINOLOGY CORRECTIONS.—Such section is further amended as follows:

(1) Subsection (b)(3)(A) is amended by striking out "full scale development or" in clause (i).

(2) Subsection (c)(3) is amended by striking out "full-scale engineering" in subparagraph (A) and inserting in lieu thereof "engineering and manufacturing".

(3) Subsection (h)(1) is amended by striking out "full-scale engineering" both places it appears and inserting in lieu thereof "engineering and manufacturing".

SEC. 3003. UNIT COST REPORT REQUIREMENT.

(a) REVISION OF BASELINE REPORT DEFINITIONS.—

(1) REVISION.—Section 2433(a) of title 10, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking out "Baseline Selected Acquisition Report" and inserting in lieu thereof "Baseline Estimate"; and

(ii) by striking out "Selected Acquisition Report in which" and all that follows through the end of the paragraph and inserting in lieu thereof "cost estimate included in the baseline description for the program under section 2435 of this title."; and

(B) by striking out paragraph (4).

(2) CONFORMING AMENDMENTS.—Section 2433 of such title is further amended—

(A) in subsection (c)(1), by striking out "Baseline Report" in subparagraphs (A) and (B) and inserting in lieu thereof "Baseline Estimate"; and

(B) in subsection (d), by striking out "Baseline Report" in paragraphs (1) and (2) and inserting in lieu thereof "Baseline Estimate".

(b) CONTENTS OF UNIT COST REPORT.—Section 2433(b) of such title is amended in paragraph (3) by striking out "Baseline Report was submitted." and inserting in lieu thereof "contract was entered into.".

(c) ELIMINATION OF CERTAIN UNIT COST REPORT REQUIREMENT.—Section 2433(c) of such title, as amended by subsection (a), is further amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) CONSTANT BASE YEAR DOLLARS.—Section 2433(f) of such title is amended by striking out "include expected inflation" and inserting in lieu thereof "be stated in terms of constant base year dollars (as described in section 2430 of this title)".

(e) CONTENTS OF SAR.—Subparagraph (I) of section 2433(g)(1) of such title is amended to read as follows:

"(I) The type of the Baseline Estimate that was included in the baseline description under section 2435 of this title and the date of the Baseline Estimate.".

SEC. 3004. REQUIREMENT FOR INDEPENDENT COST ESTIMATE AND MANPOWER ESTIMATE BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Subsection (b) of section 2434 of title 10, United States Code, is amended to read as follows:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the full life-cycle cost of a program—

"(A) be prepared by an office or other entity that is not directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required—

"(A) to operate, maintain, and support the program upon full operational deployment; and

"(B) to train personnel to carry out the activities referred to in subparagraph (A).".

(b) TERMINOLOGY CORRECTION, ETC.—Subsection (a) of such section is amended—

(1) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development"; and

(2) by striking out "cost of the program, together with a manpower estimate, has" and inserting in lieu thereof "full life-cycle cost of the program and a manpower estimate have".

SEC. 3005. BASELINE DESCRIPTION.

(a) IN GENERAL.—Section 2435 of title 10, United States Code, is amended to read as follows:

"§ 2435. Baseline description

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program under the jurisdiction of such Secretary.

"(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the 'Baseline Estimate' in section 2433 of this title), schedule, and performance of such major defense acquisition program.

"(3) No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program may be obligated without an approved baseline description unless such obligation is specifically approved by the Under Secretary of Defense for Acquisition and Technology.

"(4) A baseline description for a major defense acquisition program shall be established—

"(A) before the program enters engineering and manufacturing development; or

"(B) before the program enters production and deployment.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing—

"(1) the content of baseline descriptions;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

"(3) procedures for review of such deviation reports within the Department of Defense; and

"(4) procedures for submission to, and approval by, the Secretary of Defense of revised baseline descriptions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by amending the item relating to section 2435 to read as follows:

"2435. Baseline description.".

SEC. 3006. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3007. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. AUTHORIZATION OF LESS THAN FULL-UP TESTING.

Section 2366(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the second sentence of paragraph (1) as paragraph (3) and in that paragraph by striking out "such certification" and inserting in lieu thereof "certification under paragraph (1) or (2)"; and

(3) by inserting before paragraph (3) (as so designated) the following new paragraph:

"(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data, if the Secretary certifies to Congress that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.".

SEC. 3012. LIMITATION ON QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.

Section 2400(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "this section"; and

(B) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development";

(2) by redesignating paragraph (4) as paragraph (5) and in that paragraph by inserting after the first sentence the following: "If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity."; and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone II decision.".

SEC. 3013. OPERATIONAL TEST AND EVALUATION OF DEFENSE ACQUISITION PROGRAMS.

(a) AUTHORITY TO USE DIFFERENT PROCEDURES.—Section 2399(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) The Secretary of Defense may, for a particular major defense acquisition program, prescribe and apply operational test and evaluation procedures other than those provided under subsection (a) and paragraphs (1) through (3) of this subsection if the Secretary transmits to Congress, before the milestone II decision is made with respect to that program—

"(A) a certification that such testing would be unreasonably expensive and impracticable; and

"(B) a description of the actions taken to ensure that the system will be operationally effective and suitable when the system meets initial operational capability requirements.".

(b) CROSS-REFERENCE CORRECTIONS.—Section 2399 of such title is further amended—

(1) in subsection (b)(6) (as redesignated by subsection (a)(1)) and subsection (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)"; and

(2) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

Subtitle C—Civil Reserve Air Fleet

SEC. 3021. DEFINITION OF CONTRACTOR.

Section 9511(8) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of clause (A); and

(2) by inserting before the period at the end the following: ", or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet".

SEC. 3022. CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.

Chapter 931 of title 10, United States Code, is amended—

(1) in subsection (a) of section 9512, by inserting "AUTHORITY TO CONTRACT.—" after "(a)";

(2) in subsection (c) of section 9512, by striking out "(c)" and inserting in lieu thereof "(d) AUTHORITY TO CONTRACT AND PAY DIRECTLY.—";

(3) in subsection (b) of section 9512, by striking out "(b)" and inserting in lieu thereof "(c) TERMS AND REQUIRED REPAYMENT.—";

(4) by redesignating subsection (a) of section 9513 as subsection (b) and transferring such subsection (as so redesignated) to section 9512 and inserting such subsection after subsection (a);

(5) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(6) in subsection (b) of section 9512, as redesignated and transferred to such section by paragraph (4)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section", and

(B) by inserting "CONTRACT REQUIREMENTS.—" after "(b)";

(7) in subsection (c) of section 9512, as redesignated by paragraph (3), by striking out "the terms required by section 9513 of this title and";

(8) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (5)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section", and

(B) by inserting "COMMITMENT TO CIVIL RESERVE AIR FLEET.—" after "(e)"; and

(9) by striking out the heading of section 9513.

SEC. 3023. USE OF MILITARY INSTALLATIONS BY CONTRACTORS.

(a) AUTHORITY.—Chapter 931 of title 10, United States Code, as amended by section 3022, is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of

the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, as a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the Air Force (and any other armed force having jurisdiction over any installation covered by the contract) from any action, suit, or claim of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(d) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

Subtitle D—Miscellaneous

SEC. 3051. REGULATIONS ON PROCUREMENT, PRODUCTION, WAREHOUSING, AND SUPPLY DISTRIBUTION FUNCTIONS.

(a) IN GENERAL.—Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Regulations on procurement, production, warehousing, and supply distribution functions

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to section 2202 in the table of sections at the beginning of chapter 131 of such title is amended to read as follows:

"2202. Regulations on procurement, production, warehousing, and supply distribution functions.".

SEC. 3052. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2369.

SEC. 3053. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401 the following new section:

"§ 2401a. Lease of vessels, aircraft, and vehicles

"The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401 the following new item:

"2401a. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101-165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3054. REPEAL OF APPLICATION OF PUBLIC CONTRACTS ACT TO CERTAIN NAVAL VESSEL CONTRACTS.

(a) REPEAL.—Section 7299 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7299.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. ESTABLISHMENT OF SIMPLIFIED ACQUISITION THRESHOLD.

(a) ESTABLISHMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) IN GENERAL.—The simplified acquisition threshold for purposes of Federal acquisitions is (except as provided in subsection (b)) the amount of $25,000, as adjusted pursuant to subsection (c).

"(b) AGENCIES WITH FACNET CAPABILITY.—In the case of an executive agency, or a procuring activity of an executive agency, or a procuring activity of an executive agency, for which there is in effect a certification under 2302b(c) of title 10, United States Code, or section 302B(c) of the Federal Property and Administrative Services Act of 1949 with respect to implementation of a FACNET capability, the simplified acquisition threshold is the amount of $100,000, as adjusted pursuant to subsection (c).

"(c) PERIODIC ADJUSTMENT FOR INFLATION.—The dollar amount in effect under subsection (a) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1990 dollars (rounded to the nearest $1,000). The dollar amount in effect under subsection (b) shall be adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $1,000).

"(d) SPECIAL RULE FOR CONTINGENCY OPERATIONS.—In the case of a contract to be awarded and performed, or a purchase to be made, outside the United States in support of a contingency operation (as defined in section 101(a)(13) of title 10, United States Code), the amounts in effect under subsections (a) and (b) shall be two times the amounts otherwise applicable.".

(b) CONFORMING AMENDMENT TO DEFINITION.—Section 4 of such Act is amended by striking out paragraph (11).

SEC. 4002. FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.

(a) FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1092, is further amended by adding at the end the following new section:

"SEC. 30. FEDERAL ACQUISITION COMPUTER NETWORK (FACNET) ARCHITECTURE.

"(a) IN GENERAL.—(1) The Administrator shall establish a program for the development and implementation of a Federal acquisition computer network architecture (hereinafter in this section referred to as 'FACNET'). The Administrator shall assign a program manager for FACNET and shall provide for overall direction of policy and leadership in the development, coordination, installation, operation, and completion of implementation of FACNET by executive agencies.

"(2) In carrying out paragraph (1), the Administrator shall consult with appropriate Federal agencies with applicable technical and functional expertise, including the Office of Information and Regulatory Affairs, the National Institute of Standards and Technology, the General Services Administration, and the Department of Defense.

"(3) The Administrator shall carry out paragraph (1) not later than the date that is 5 years after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(b) FUNCTIONS OF FACNET.—The FACNET architecture shall provide for the following functions:

"(1) GOVERNMENT FUNCTIONS.—Allow executive agencies to do the following electronically:

"(A) Provide widespread public notice of solicitations for contract opportunities issued by an executive agency and of orders to be made by the agency.

"(B) Allow responses to solicitations and requests for information to be submitted to the procuring activity through such system.

"(C) Allow public notice of contract awards to be provided through such system.

"(D) In cases in which it is practicable, allow questions regarding solicitations to be answered through such system.

"(E) Allow orders to be made through such system.

"(F) In cases in which it is practicable, make payments to contractors by bank card, electronic funds transfer, or other automated methods.

"(G) Archive data relating to each procurement action made using such system.

"(2) USER FUNCTIONS.—Allow private users to do the following electronically:

"(A) Access notice of solicitations for contract opportunities issued by an executive agency and of orders to be made by the executive agency.

"(B) Selectively access and review solicitations and orders issued by the executive agency.

"(C) Respond to solicitations and notices of orders issued by the executive agency.

"(D) Receive orders from the executive agency.

"(E) Access information on contract awards made by the executive agency.

"(F) In cases in which it is practicable, receive payment by bank card, electronic funds transfer, or other automated means.

"(3) GENERAL FUNCTIONS.—

"(A) Allow the electronic exchange of procurement information between the private sector and the Federal Government.

"(B) Employ nationally and internationally recognized data formats that serve to broaden and ease the electronic interchange of data.

"(C) Allow convenient and universal user access through a single point of entry.

"(c) ARCHITECTURE DEFINED.—For purposes of this section, the term 'architecture' means an evolving description of all functions to be performed to achieve the mission of streamlining procurement through electronic commerce, the system elements and interfaces needed to perform the functions, and the designation of performance levels of those system elements.

"(d) ANNUAL REPORT TO CONGRESS.—The Administrator shall evaluate progress by executive agencies in implementing the FACNET under this section. The Administrator shall submit to the Congress, on the date that is one year after the date of the enactment of the Federal Acquisition Improvement Act of 1994 and on that date in each of the 5 years thereafter, a report on the overall progress by the executive branch and by each executive agency in implementing this section.".

(b) TECHNICAL AMENDMENTS.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in subsection (a)(1)(A), by striking out "notice" in the matter following clause (ii) and inserting in lieu thereof "notice of solicitation"; and

(2) in subsection (d), by striking out "a notice under subsection (e)" in the first sentence and inserting in lieu thereof "a notice of solicitation under subsection (a)".

SEC. 4003. IMPLEMENTATION IN ARMED SERVICES.

(a) ESTABLISHMENT IN TITLE 10.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302 the following new sections:

"§ 2302a. Simplified acquisition threshold

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by agencies named in section 2303 of this title, the simplified acquisition threshold is as specified in section 4A of the Office of Federal Procurement Policy Act.

"§ 2302b. Implementation of FACNET capability

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each agency named in section 2303 of this title shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act. In the case of the Department of Defense, the implementation shall be by the Secretary of Defense for the Department of Defense as a whole. For purposes of this section, the term 'head of an agency' does not include the Secretaries of the military departments.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—(1) The Secretary of Defense shall designate the Under Secretary of Defense for Acquisition and Technology to have responsibility for implementation of FACNET capability throughout the Department of Defense.

"(2) The head of each agency named in paragraph (5) or (6) of section 2303 of this title shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(c) CERTIFICATION OF FACNET CAPABILITY.—(1) When the senior procurement executive of an agency or, in the case of the Department of Defense, the Under Secretary of Defense for Acquisition and Technology, determines that a procuring activity of the agency has implemented an interim FACNET capability (as defined in subsection (e)), the executive or the Under Secretary shall certify to the Administrator for Federal Procurement Policy that such activity has implemented an interim FACNET capability.

"(2) When the head of an agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the agency has implemented a full FACNET capability (as defined in subsection (f)), the head of the agency shall certify to Congress that the agency has implemented a full FACNET capability.

"(3) The head of each agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C) of the Office of Federal Procurement Policy Act, in that agency as soon as practicable after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(d) HIGHER SIMPLIFIED ACQUISITION THRESHOLD WHEN FACNET CAPABILITY CERTIFIED.—A certification to the Administrator for Federal Procurement Policy or Congress under subsection (c) shall be considered to be a certification for purposes of the higher simplified acquisition threshold under section 4A(b) of the Office of Federal Procurement Policy Act, except that a certification under paragraph (1) of subsection (c) shall not constitute such a certification in the case of solicitations issued after the end of the five-year period beginning on the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(e) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A) and (2)(A) of section 30(b) of the Office of Federal Procurement Policy Act; and

"(2) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity issues notices of solicitations through a system with those functions for all contracting opportunities other than in cases covered by section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)).

"(f) IMPLEMENTATION OF FULL FACNET CAPABILITY.—(1) An agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the agency for which the head of the agency determines that implementation is not cost effective or practicable) the agency has implemented all of the FACNET functions described in section 30(b) of the Office of Federal Procurement Policy Act.

"(2) For purposes of paragraph (1), an agency may not be considered to have implemented a full FACNET capability if—

"(A) the head of the agency has determined that implementation of FACNET capability is not cost effective or practicable in the case of certain procuring activities (or portions thereof) of the agency; and

"(B) the percentage of the procurement actions in amounts greater than the micro-purchase threshold executed by the procuring activities (or portions thereof) referred to in subparagraph (A) for the preceding fiscal year is greater than 25 percent of the total number of procurement actions in amounts greater than the micro-purchase threshold executed by the agency for that year.

"(g) PROCURING ACTIVITIES ORIGINALLY EXCLUDED IN CERTIFICATION.—(1) If the head of an agency, in certifying under subsection (c) that the agency has implemented a full FACNET capability, determines that such implementation is not cost effective or practicable in the case of any procuring activity (or portion thereof) of that agency, then that certification shall not apply under section 4A(b) of the Office of Federal Procurement Policy Act to any procurement action by that procuring activity (or portion thereof).

"(2) If the head of an agency determines that an interim or a full FACNET capability has subsequently been implemented for that procuring activity (or portion thereof), the head of the agency shall make a certification to the Administrator for Federal Procurement Policy in the same manner as a certification under paragraph (1) or (2) of subsection (c), as applicable, and such certification shall have the same effect with respect to that procuring activity (or portion thereof) as if made under such paragraph of subsection (c).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by inserting after the item relating to section 2302 the following new items:

"2302a. Simplified acquisition threshold.

"2302b. Implementation of FACNET capability.".

SEC. 4004. IMPLEMENTATION IN CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302 the following new sections:

"SEC. 302A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by executive agencies, the simplified acquisition threshold is as specified in section 4A of the Office of Federal Procurement Policy Act.

"SEC. 302B. IMPLEMENTATION OF FACNET CAPABILITY.

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each executive agency shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an executive agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—The head of each executive agency shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(c) CERTIFICATION OF FACNET CAPABILITY.—(1) When the senior procurement executive of an executive agency determines that a procuring activity of the agency has implemented an interim FACNET capability (as defined in subsection (e)), the executive shall certify to the Administrator for Federal Procurement Policy that such activity has implemented an interim FACNET capability.

"(2) When the head of an executive agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the executive agency has implemented a full FACNET capability (as defined in subsection (f)), the head of the executive agency shall certify to Congress that the agency has implemented a full FACNET capability.

"(3) The head of each executive agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C) of the Office of Federal Procurement Policy Act, in that executive agency as soon as practicable after the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(d) HIGHER SIMPLIFIED ACQUISITION THRESHOLD WHEN FACNET CAPABILITY CERTIFIED.—A certification to the Administrator for Federal Procurement Policy or Congress under subsection (c) shall be considered to be a certification for purposes of the higher simplified acquisition threshold under section 4A(b) of the Office of Federal Procurement Policy Act, except that a certification under paragraph (1) of subsection (c) shall not constitute such a certification in the case of solicitations issued after the end of the five-year period beginning on the date of the enactment of the Federal Acquisition Improvement Act of 1994.

"(e) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A) and (2)(A) of section 30(b) of the Office of Federal Procurement Policy Act; and

"(2) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and less than the simplified acquisition threshold, the procuring activity issues notices of solicitations through a system with those functions for all contracting opportunities other than in cases covered by section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)).

"(f) IMPLEMENTATION OF FULL FACNET CAPABILITY.—(1) An executive agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the executive agency for which the head of the agency determines that implementation is not cost effective or practicable) the executive agency has implemented all of the FACNET functions described in section 30(b) of the Office of Federal Procurement Policy Act.

"(2) For purposes of paragraph (1), an executive agency may not be considered to have implemented a full FACNET capability if—

"(A) the head of the executive agency has determined that implementation of FACNET capability is not cost effective or practicable in the case of certain procuring activities (or portions thereof) of the executive agency; and

"(B) the percentage of the procurement actions in amounts greater than the micro-purchase threshold executed by the procuring activities (or portions thereof) referred to in subparagraph (A) for the preceding fiscal year is greater than 25 percent of the total number of procurement actions in amounts greater than the micro-purchase threshold executed by the executive agency for that year.

"(g) PROCURING ACTIVITIES ORIGINALLY EXCLUDED IN CERTIFICATION.—(1) If the head of an executive agency, in certifying under subsection (c) that the agency has implemented a full FACNET capability, determines that such implementation is not cost effective or practicable in the case of any procuring activity (or portion thereof) of that executive agency, then that certification shall not apply under section 4A(b) of the Office of Federal Procurement Policy Act to any procurement action by that procuring activity (or portion thereof).

"(2) If the head of an executive agency determines that an interim or a full FACNET capability has subsequently been implemented for that procuring activity (or portion thereof), the executive agency shall make a certification to the Administrator for Federal Procurement Policy in the same manner as a certification under paragraph (1) or (2) of subsection (c), as applicable, and such certification shall have the same effect with respect to that procuring activity (or portion thereof) as if made under such paragraph of subsection (c).".

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. PROCEDURES FOR PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4001, is further amended by inserting after section 4A the following new section:

"SEC. 4B. PROCEDURES APPLICABLE TO PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

"(a) REQUIREMENTS.—(1) The head of each executive agency shall ensure that procuring activities of that agency, in awarding a contract with a price exceeding the micro-purchase threshold, comply with the requirements of section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and section 2323 of title 10, United States Code, or section 315 of the Federal Property and Administrative Services Act of 1949, as applicable to that agency.

"(2) The authority under part 13.106(a)(1) of the Federal Acquisition Regulation (48 C.F.R. 13.106(a)(1)), as in effect on November 18, 1993, to make purchases without securing competitive quotations does not apply to any purchases with a price exceeding the micro-purchase threshold.

"(b) EXCLUSION FOR MICRO-PURCHASES.—A purchase by an executive agency with an anticipated value of the micro-purchase threshold or less is not subject to the Act of March 3, 1933, commonly referred to as the 'Buy American Act' (41 U.S.C. 10a–10c).

"(c) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of section 27, only subsections (a) and (b) shall apply with respect to purchases below the micro-purchase threshold. In applying such subsection (a), a contractor that enters into a contract under the micro-purchase threshold shall be considered to be a competing contractor. In applying such subsection (b), a civil officer or employee, and any member of the Armed Forces, who has authority to enter into contracts but whose contracting authority is limited to the amount of the micro-purchase threshold or less shall be considered to be a procurement official.

"(d) IMPLEMENTATION THROUGH FAR.—This section shall be implemented through the Federal Acquisition Regulation.

"(e) MICRO-PURCHASE THRESHOLD DEFINED.—For purposes of this section, the micro-purchase threshold is the amount of $2,500, adjusted on October 1 of each year divisible by 5 to the equivalent amount in constant fiscal year 1993 dollars (rounded to the nearest $100).".

SEC. 4012. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended as follows:

(1) Paragraph (1) is amended—

(A) by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "the simplified acquisition threshold";

(B) by striking out "(c)—" in the matter preceding subparagraph (A) and inserting in lieu thereof "(c):";

(C) by striking out "an executive" at the beginning of subparagraphs (A) and (C) and inserting in lieu thereof "An executive";

(D) by striking out the semicolon at the end of subparagraph (A) and inserting in lieu thereof a period; and

(E) by amending subparagraph (B) to read as follows:

"(B) An executive agency intending to solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000 but not to exceed the simplified acquisition threshold shall post a notice of solicitation described in subsection (b). The notice shall be posted at the contracting office issuing the solicitation or shall be made available through an electronic system with a FACNET capability that at least meets the requirements of paragraphs (1)(A) and (2)(A) of section 30(b). The notice shall be posted for a period of not less than 10 days, except that in the case of a posting made through an electronic system with such a FACNET capability, the posting may be for a period of less than 10 days as prescribed in the Federal Acquisition Regulation.".

(2) Paragraph (3)(B) is amended by inserting after "(B)" the following: "in the case of a contract or order for an amount expected to exceed the simplified acquisition threshold,".

(b) OPPORTUNITY FOR ALL RESPONSIBLE POTENTIAL OFFERORS.—Such subsection is further amended by adding at the end the following:

"(4) An executive agency intending to solicit offers for a contract for which a notice of solicitation is required to be posted under paragraph (1)(B) shall ensure that all potential offerors are permitted to respond to the solicitation for the contract within the period of time specified in the solicitation for the submission of offers.".

(c) ESTABLISHMENT OF DEADLINE FOR SUBMISSION OF OFFERS.—Such subsection is further amended by adding after paragraph (4), as added by subsection (b), the following new paragraph:

"(5) An executive agency shall establish a deadline for the submission of all bids or proposals in response to a notice of solicitation with respect to which no such deadline is provided by statute.".

(d) EXCEPTIONS.—Subsection (c) of such section is amended by adding at the end the following new paragraph:

"(4)(A) The requirements of subsection (a)(1) shall not apply in the case of an acquisition for which notice is accomplished through the use of FACNET, as described in section 30 and certified under section 2302a of title 10, United States Code, or section 302A of the Federal Property and Administrative Services Act of 1949.

"(B) The Federal Acquisition Regulation shall provide for minimum periods of time for submission of offers for acquisitions described in subparagraph (A). Such periods shall provide offerors a reasonable opportunity to respond.

"(C) A notice of solicitation of bids or proposals for an acquisition described in subparagraph (A) shall include the matter described in subsection (b).".

SEC. 4013. GAO TEST AND REPORT ON PERFORMANCE OF SIMPLIFIED ACQUISITION THRESHOLD.

(a) PERFORMANCE TEST.—The Comptroller General of the United States shall collect data and assess the effects of the simplified acquisition threshold, as established in section 4A of the Office of Federal Procurement Policy Act, on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) in procurement awards of less than $100,000 and the benefits and detriments, if any, to the procuring activities of the various Executive agencies.

(b) DATA TO BE COLLECTED.—Data collected under subsection (a) shall include data regarding whether the establishment of the simplified acquisition threshold has improved the acquisition process in terms of reduced paperwork, financial or other savings to the Federal Government, and any increase in the number of contractors participating in the contracting process.

(c) PERIOD.—Data shall be collected for purposes of subsection (a) during the period beginning with the first full fiscal year quarter after the effective date of the amendments made by section 3001 and ending on September 30, 1997.

(d) REPORT.—By March 1, 1998, the Comptroller General shall submit to Congress a report on the effects of the establishment of the simplified acquisition threshold by the amendments made by section 3001.

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

Subpart A—Generally

SEC. 4021. INAPPLICABILITY OF FUTURE ENACTED PROCUREMENT LAWS TO CONTRACTS NOT EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD.

(a) ARMED SERVICES.—Section 2302a of title 10, United States Code, as added by section 4003(a), is amended by adding at the end the following new subsection:

"(b) CONSTRUCTION WITH FUTURE ENACTMENTS.—A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 shall not be construed as applicable to purchases of property or services by an agency named in section 2303 of this title for an amount not in excess of the simplified acquisition threshold unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.".

(b) CIVILIAN AGENCIES.—Section 302A of the Federal Property and Administrative Services Act of 1949, as added by section 4004(a), is amended by adding at the end the following new subsection:

"(b) CONSTRUCTION WITH FUTURE ENACTMENTS.—A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 shall not be construed as applicable to purchases of property or services by an executive agency for an amount not in excess of the simplified acquisition threshold unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.".

Subpart B—Armed Services Acquisitions

SEC. 4031. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Section 2302a of title 10, United States Code, as amended by section 4021, is further amended by adding at the end the following new subsection:

"(c) INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract in an amount not greater than the simplified acquisition threshold:

"(1) Section 2306(b) of this title (relating to prohibition on contingent fees).

"(2) Section 2313 of this title (relating to examination of books and records of contractor).

"(3) Section 2384(b) of this title (relating to requirement to identify suppliers and sources of supplies).

"(4) Section 2393(d) of this title (relating to prohibition against doing business with certain offerors of contractors).

"(5) Section 2402 of this title (relating to prohibition on limitation of subcontractor direct sales).

"(6) Section 2408(a) of this title (relating to prohibition on persons convicted of defense-contract related felonies).

"(7) Section 2410b of this title (relating to contractor inventory accounting system standards).

"(8) Section 2534 of this title (relating to miscellaneous limitations on procurement).

"(9) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)).

"(10) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.).".

SEC. 4032. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(b) INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (e) the following:

"(2) A contract that is for an amount not in excess of the simplified acquisition threshold.".

(c) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract for an amount that does not exceed the simplified acquisition threshold.".

(d) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold.".

(e) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(f) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) In this subsection, the term 'defense contract' means a contract in an amount in excess of the simplified acquisition threshold.".

(g) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) The regulations prescribed pursuant to subsection (a) shall not apply to a contract that is for an amount not in excess of the simplified acquisition threshold.".

(h) INAPPLICABILITY OF MISCELLANEOUS PROCUREMENT LIMITATIONS.—Section 2534 of title 10, United States Code, is amended by adding at the end the following:

"(g) INAPPLICABILITY TO CONTRACTS UNDER SIMPLIFIED ACQUISITION THRESHOLD.—This section does not apply to a contract for an amount that does not exceed the simplified acquisition threshold.".

Subpart C—Civilian Agency Acquisitions

SEC. 4041. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Section 302A of the Federal Property and Administrative Services Act of 1949, as amended by section 4021(b), is further amended by adding at the end the following new subsection:

"(c) INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract entered into by an executive agency in an amount not greater than the simplified acquisition threshold:

"(1) Sections 303G, 304(a), and 304C of this Act.

"(2) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)).

"(3) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.).".

SEC. 4042. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract for an amount that is not in excess of the simplified acquisition threshold.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT

FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract for an amount that is not in excess of the simplified acquisition threshold.".

(c) INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 304C of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (e) the following:

"(2) A contract that is for an amount not in excess of the simplified acquisition threshold.".

Subpart D—Acquisitions Generally

SEC. 4051. CONFORMANCE OF CERTAIN PROCUREMENT INTEGRITY REQUIREMENTS.

Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by inserting after "$100,000" the following: "or the simplified acquisition threshold, whichever is greater".

SEC. 4052. INAPPLICABILITY OF THE DRUG-FREE WORKPLACE ACT OF 1988.

Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4A of such Act) by any Federal agency".

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as so redesignated, by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of such title is amended by striking out "small purchases)" in the matter preceding subparagraph (A) and inserting in lieu thereof "a purchase for an amount not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of such title is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

(d) CROSS REFERENCE AMENDMENT.—Section 9005 of Public Law 102-396 (10 U.S.C. 2441 note) is amended in the first sentence by striking out "small purchases covered by section 2304(g)" and inserting in lieu thereof "purchases for amounts not in excess of the simplified acquisition threshold covered by section 2304(g)".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(1) in paragraph (1)—

(A) by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not in excess of the simplified acquisition threshold", and

(B) by striking out "regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984," and inserting in lieu thereof "Federal Acquisition Regulation";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(5) in paragraph (3), as so redesignated, by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(6) by striking out paragraph (5).

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of such Act (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter preceding paragraph (1) and inserting in lieu thereof "a purchase for an amount not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of such Act (41 U.S.C. 254(b)) is amended in the third sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements for amounts in excess of the simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—(1) Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000 (other than such an amount that is specified by law); and

(B) amend the regulations so identified to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold.

(2) Paragraph (1)(B) does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—Not later than 90 days after the date on which the review required by subsection (a)(1)(A) is completed, the head of each executive agency that has issued regulations, policies, or procedures referred to in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall—

(1) identify any such regulation, policy, or procedure that is applicable to acquisitions in excess of a specified amount that is less than $100,000; and

(2) pursuant to section 22 of such Act (41 U.S.C. 418b), publish amendments to the regulations so identified to provide that each such regulation, policy, or procedure does not apply to acquisitions that are not in excess of the simplified acquisition threshold.

(c) RELATIONSHIP TO OTHER AUTHORITY.—None of the amendments to regulations made pursuant to subsections (a) and (b) apply to or in any way diminish the authority of the civil rights enforcement programs enforced by the Department of Labor.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4A of the Office of Federal Procurement Policy Act, as added by section 4001.

(2) The term "executive agency" has the meaning given such term in section 3(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. SMALL BUSINESS PROVISIONS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting after paragraph (7) the following new paragraphs:

"(8) developing policies, in consultation with the Administrator of the Small Business Administration, that ensure that small businesses and small businesses owned and controlled by socially and economically disadvantaged persons are provided with the maximum practicable opportunities to participate in procurements that are conducted for amounts below the simplified acquisition threshold;

"(9) developing policies that will promote achievement of goals for participation by small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals;".

SEC. 4102. PAYMENT PROTECTIONS FOR SUBCONTRACTORS AND SUPPLIERS.

(a) REGULATIONS.—

(1) IN GENERAL.—The Administrator for Federal Procurement Policy shall prescribe in regulations the requirements described in paragraph (2).

(2) PROCEDURES RELATING TO COMPLIANCE WITH PAYMENT TERMS.—(A) Under procedures established in the regulations, upon the assertion by a subcontractor or supplier of a contractor performing a Government contract that the subcontractor or supplier has not been paid by the prime contractor in accordance with the payment terms of the subcontract, purchase order, or other agreement with the prime contractor, the contracting officer may determine the following:

(i) With respect to a construction contract, whether the contractor has made progress payments to the subcontractor or supplier in compliance with chapter 39 of title 31, United States Code.

(ii) With respect to a contract other than a construction contract, whether the contractor has made progress or other payments to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

(iii) With respect to either a construction contract or a contract other than a construction contract, whether the contractor has made final payment to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor.

(iv) With respect to either a construction contract or a contract other than a construction contract, whether any certification of payment of the subcontractor or supplier accompanying the contractor's payment request to the Government is accurate.

(B) If the contracting officer determines that the prime contractor is not in compliance with any matter referred to in clause (i), (ii), or (iii) of subparagraph (A), the contracting officer may, under procedures established in the regulations—

(i) encourage the prime contractor to make timely payment to the subcontractor or supplier; or

(ii) reduce or suspend progress payments with respect to amounts due to the prime contractor.

(C) If the contracting officer determines that a certification referred to in clause (iv) of subparagraph (A) is inaccurate in any material respect, the contracting officer shall, under procedures established in the regulations, initiate appropriate administrative or other remedial action.

(D) This paragraph shall apply with respect to any Government contract, other than a Department of Defense contract, that is in effect on the date of promulgation of the regulations under this subsection or that is awarded after such date.

(b) INAPPLICABILITY TO CERTAIN CONTRACTS.—The regulations prescribed under this section shall not apply to the following contracts:

(1) A contract that is for an amount not in excess of the simplified acquisition threshold (within the meaning of section 4A of the Office of Federal Procurement Policy Act).

(2) A contract for the acquisition of commercial items (as that term is defined in section 4(12) of the Office of Federal Procurement Policy Act).

(c) AMENDMENTS TO ARMED SERVICES PROVISION.—Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 2301 note) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) INAPPLICABILITY TO CERTAIN CONTRACTS.—Regulations prescribed under this section shall not apply to the following contracts:

"(1) A contract that is for an amount not in excess of the simplified acquisition threshold (within the meaning of section 4A of the Office of Federal Procurement Policy Act).

"(2) A contract for the acquisition of commercial items (as that term is defined in section 2281 of title 10, United States Code).".

SEC. 4103. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 15 U.S.C. 637 note) is amended by striking out "September 30, 1994." in the second sentence and inserting in lieu thereof "September 30, 1997.".

SEC. 4104. SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established an interagency council to be known as the "Small Business Procurement Advisory Council" (hereinafter in this section referred to as the "Council").

(b) DUTIES.—The duties of the Council are—

(1) to serve as a forum for discussion of issues and problems relating to, and ideas for improvement of, small business procurement matters within the Federal Government;

(2) to provide information to other departments and agencies of the Federal Government about small business procurement; and

(3) to issue advisory reports to the Office of Federal Procurement Policy and the Small Business Administration on small business procurement matters.

(c) MEMBERSHIP.—The Council shall be composed of the following members:

(1) The Administrator for Federal Procurement Policy (or the designee of the Administrator).

(2) The Administrator of the Small Business Administration (or the designee of the Administrator).

(3) The Director of the Minority Business Development Agency.

(4) The head of each Office of Small and Disadvantaged Business Utilization in each Federal agency having procurement powers.

(d) COCHAIRMEN.—The Council shall be cochaired by the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration.

(e) MEETINGS.—The Council shall meet at the call of the chairmen, but not less often than four times a year and once each quarter.

(f) DIRECTOR.—The Chief Counsel for Advocacy of the Small Business shall serve as the director of the Council. The director may not vote on matters before the council except in the case of a tie vote among the members. The duties of the director shall be determined by the chairmen of the Council. The Chief Counsel for Advocacy shall receive no additional pay by reason of the counsel's service as director of the Council.

(g) ANNUAL REPORT.—(1) Not later than 30 days after the end of each fiscal year, the Council shall submit to Congress a report detailing the activities of the Council during the preceding fiscal year in carrying out this section.

SEC. 4105. MAXIMUM PRACTICABLE OPPORTUNITIES FOR APPRENTICES ON FEDERAL CONSTRUCTION PROJECTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) contractors performing Federal construction contracts should, to the maximum extent practicable, give preference in the selection of subcontractors to subcontractors participating in apprenticeship programs registered with the Department of Labor or with a State apprenticeship agency recognized by such Department; and

(2) contractors and subcontractors performing Federal construction contracts should provide maximum practicable opportunities for employment of apprentices who are participating in or who have completed such apprenticeship programs.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report on the extent to which contractors and subcontractors performing Federal construction contracts have increased subcontractor participation in registered apprenticeship programs.

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES FOR PROCUREMENT FROM A SPECIFIED SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 1005, is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (k)," after "(5)"; and

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

"(k)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement by an agency to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement by an agency to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source from which the procurement is to made; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

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

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement by an executive agency to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement by an executive agency to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

SEC. 4152. REPEAL OF OBSOLETE PROVISION.

Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

TITLE V—STANDARDS OF CONDUCT

SEC. 5001. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1091, is further amended by inserting after section 22 the following new section 23:

"SEC. 23. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

"(a) LIMITATION ON USE OF CONTRACT ADVISORY AND ASSISTANCE SERVICES.—(1) An executive agency may not provide for an evaluation or analysis of any aspect of a proposal submitted for an acquisition by that executive agency to be conducted by a person who is not an employee of an executive agency or a member of the Armed Forces unless the executive agency determines that employees or members with adequate training and capability to perform the evaluation or analysis are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the executive agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of employees within the executive agency or another Federal agency are readily available to perform a particular evaluation or analysis for the executive agency making the determination; and

"(B) the readily available employees have the training and capabilities necessary to perform the evaluation or analysis.

"(b) DEFINITION.—For purposes of this section, the term 'employee' has the meaning given such term in section 2105 of title 5, United States Code.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—

(1) IN GENERAL.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(B) provide guidance and promulgate regulations regarding—

(i) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(ii) the manner in which Federal employees with expertise may be shared with agencies needing expertise for such acquisitions.

(2) DEFINITION.—In paragraph (1), the term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

SEC. 5002. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 5003. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"SEC. 3741. No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 5004. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

Section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" in subsection (a) and inserting in lieu thereof "45 days"; and

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

"(3) A policy, regulation, procedure, or form described in subsection (a) may (notwithstanding that subsection) take effect earlier than 45 days after the date of publication thereof in the Federal Register pursuant to subsection (b) if the officer authorized to issue the procurement policy, regulation, procedure, or form determines that compelling circumstances make compliance with the 45-day requirement under subsection (a) impracticable. However, the policy, regulation, procedure, or form may not take effect earlier than 30 days after the publication date except as provided in paragraph (1).".

SEC. 5005. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following sections of title 10, United States Code, are repealed: sections 2207, 2397, 2397a, 2397b, and 2397c.

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2207.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

TITLE VI—DEFENSE TRADE AND COOPERATION

SEC. 6001. EXCEPTION TO BUY AMERICAN ACT FOR MICRO-PURCHASES.

Section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a), commonly referred to as the "Buy American Act", is amended by adding at the end the following: "This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is less than or equal to the micro-purchase threshold under section 4B of the Office of Federal Procurement Policy Act.".

SEC. 6002. POLICY ON PURCHASE OF FOREIGN GOODS.

(a) IN GENERAL.—Section 2533 of title 10, United States Code, is amended to read as follows:

"§ 2533. Policy on the purchase of foreign goods

"(a) DETERMINATION UNDER BUY AMERICAN ACT.— In determining whether application of the Buy American Act is inconsistent with the public interest, the Secretary of Defense shall give adequate consideration to the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The balance of payments of the United States.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) The need to ensure that the Department of Defense has access to advanced state-of-the-art commercial technology.

"(7) The need to protect the national technology and industrial base, to preserve and enhance the national technology employment base, and to provide for a defense mobilization base.

"(8) The need to maintain the same source of supply for spare and replacement parts either for an end item that qualifies as an American good or to maintain or foster the integration of the military and commercial industrial base.

"(9) National security interests of the United States.

"(b) In this section, the term 'goods which are other than American goods' means—

"(1) an end product that is not mined, produced, or manufactured in the United States; or

"(2) an end product that is manufactured in the United States but which includes components mined, produced, or manufactured outside the United States the aggregate cost of which exceeds the aggregate cost of the components of such end product that are mined, produced, or manufactured in the United States.".

(b) CLERICAL AMENDMENT.—The item relating to section 2533 in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Policy on purchase of foreign goods.".

SEC. 6003. CONSOLIDATION OF MISCELLANEOUS PROCUREMENT LIMITATIONS.

Section 2534 of title 10, United States Code, is amended—

(1) by striking out subsections (a) through (f);

(2) by redesignating subsection (g), as added by section 4032, as subsection (d); and

(3) by inserting after the section heading the following:

"(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure an item listed in subsection (b) only if the item is manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(b) COVERED ITEMS.—Subsection (a) applies to the following:

"(1) BUSES.—Multipassenger motor vehicles (buses).

"(2) CHEMICAL WEAPONS ANTIDOTE.—Chemical weapons antidote contained in automatic injectors (or components for such injectors), but only if the company that manufactures the item not only manufactures it in the United States but also meets the following requirements:

"(A) The company is an existing producer under the industrial preparedness program at the time the contract is awarded.

"(B) The company has received all required regulatory approvals.

"(C) The company has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded.

"(3) VALVES AND MACHINE TOOLS.—(A) Items in the following categories:

"(i) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(ii) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(B) Contracts for the procurement of items described in subparagraph (A) include contracts—

"(i) for the use of such items in any property under the control of the Department of Defense, including Government-owned, contractor-operated facilities; and

"(ii) entered into by contractors on behalf of the Department of Defense for the purposes of providing such items to other contractors as Government-furnished equipment.

"(C) In any case in which a contract for items described in subparagraph (A) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories, each supply class shall be evaluated separately for purposes of determining whether the limitation in this subsection applies.

"(D) This paragraph is effective through fiscal year 1996.

"(4) AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels.

"(5) SONOBUOYS.—Sonobuoys.

"(6) BALL BEARINGS AND ROLLER BEARINGS.—Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992. This paragraph is effective through fiscal year 1995.

"(c) EXCEPTIONS.—The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in subsection (b) if the Secretary determines that any of the following apply:

"(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

"(2) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates

against defense items produced in that country.

"(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title) are not available.

"(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

"(7) Application of the limitation is not in the national security interests of the United States.

"(8) Application of the limitation would adversely affect a United States company.

"(d) PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.—A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law—

"(1) specifically refers to this section;

"(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.".

SEC. 6004. REPEAL OF OBSOLETE AND REDUNDANT PROVISIONS.

(a) REPEAL OF REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(b) REPEAL OF REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

(c) REPEAL OF STUDIES OF WAIVERS.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516), relating to studies of certain employment effects and procurement effects of a waiver of the Buy American Act, is repealed.

TITLE VII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

SEC. 7001. DEFINITIONS.

(a) DEFINITIONS.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means any of the following:

"(A) Any item of a type customarily used in the course of normal business operations for other than Federal Government purposes, that—

"(i) has been sold, leased, or licensed to the general public or to domestic State, or local government entities; or

"(ii) has been offered for sale, lease, or license to the general public or to domestic State, or local government entities.

"(B) An item intended to be used in the course of normal business operations for other than Federal Government purposes that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.

"(C) Any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A) or (B).

"(D) Any combination of items meeting the requirements of subparagraph (A), (B), or (C) that are of a type customarily combined and sold in combination to the general public.

"(E) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

"(F) Services offered and sold competitively, in significant quantities, in the commercial marketplace at established catalog prices or standard rates and under standard commercial terms and conditions.

"(G) Any item, combination of items, or service referred to in subparagraphs (A) through (F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(13) The term 'nondevelopmental item' means any of the following:

"(A) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement.

"(B) Any item of supply described in subparagraph (A) that requires only minor modification or modification of the type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency.

"(C) Any item of supply currently being produced that does not meet the requirements of subparagraph (A) or (B) solely because the item is not yet in use.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking out "Act—" in the matter preceding paragraph (1) and inserting in lieu thereof "Act:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1) through (11);

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period; and

(4) by striking out "; and" at the end of paragraphs (4) and (10) and inserting in lieu thereof a period.

SEC. 7002. REGULATIONS ON ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide regulations to implement paragraphs (12) through (15) of section 4 of the Office of Federal Procurement Policy Act, chapter 136 of title 10, United States Code, and sections 314 through 314D of the Federal Property and Administrative Services Act of 1949.

(b) TERMS AND CONDITIONS.—The regulations prescribed under subsection (a) shall contain a set or sets of terms and conditions to be included in contracts for the acquisition of commercial end items. Such terms and conditions shall, to the maximum extent practicable, include only those contract clauses that are—

(1) required to implement provisions of law applicable to commercial item acquisitions; or

(2) consistent with standard commercial practice.

(c) TERMS AND CONDITIONS FOR COMPONENTS.—Such regulations shall provide that a prime contractor furnishing commercial items or items other than commercial items as items or components shall not be required to apply to any of its divisions, subsidiaries, affiliates, subcontractors, or suppliers that are furnishing commercial items as components any clause, term, or condition except those that are—

(1) required to implement provisions of law applicable to subcontractors furnishing commercial items; or

(2) determined to be consistent with standard commercial practice.

(d) MARKET ACCEPTANCE.—The regulations prescribed under subsection (a) shall provide that, under appropriate conditions, the agency head may require an offeror to demonstrate, as a condition for being considered responsive, that the items offered meet, among other criteria, market acceptance criteria, unless such item has been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements.

(e) USE OF FIXED PRICE CONTRACTS.—The regulations prescribed under subsection (a) shall include a requirement that firm, fixed price contracts, or fixed price contracts with economic price adjustment provisions, be used for the acquisition of commercial items and components.

(f) TERM OF CONTRACTS.—The regulations prescribed under subsection (a) shall provide that, to the extent practicable, contracts for acquisition of commercial items shall not require contract performance for a term longer than customary industry practice for the item being acquired. A contracting officer may include in a contract provisions for economic price adjustment if an extended period of performance under the contract cannot be avoided.

(g) CONTRACT QUALITY REQUIREMENTS.—The regulations prescribed under subsection (a) shall include provisions that—

(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the existing quality assurance system of the contractor as a substitute for compliance with an otherwise applicable requirement for the Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Government;

(2) require that, to the maximum extent practicable, the executive agency take advantage of warranties (including extended warranties) offered by offerors of commercial items and use such warranties for the repair and replacement of commercial items; and

(3) set forth guidance regarding the use of past performance of commercial items and sources as a factor in contract award decisions.

(h) DEFENSE CONTRACT CLAUSES.—

(1) REPEAL OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) is repealed.

(2) SAVINGS PROVISION.—Notwithstanding subsections (b) and (c), a contract of the Department of Defense entered into before October 1, 1994, and a subcontract entered into before such date under such a contract, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

Subtitle B—Armed Services Acquisitions

SEC. 7101. ESTABLISHMENT OF NEW CHAPTER IN TITLE 10.

(a) ESTABLISHMENT.—Part IV of subtitle A of title 10, United States Code, is amended by inserting before chapter 137 the following new chapter 136:

"CHAPTER 136—PROCUREMENT OF COMMERCIAL ITEMS

"Sec.
"2281. Definitions.
"2282. Preference for acquisition of commercial items.
"2283. Exception to cost or pricing data requirement for commercial items.
"2284. Principle of construction with future laws.
"2285. Inapplicability of certain provisions of law.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and the beginning of part IV of such subtitle are amended by inserting before the item relating to chapter 137 the following new item:

"136. Procurement of Commercial Items ..... 2281".

SEC. 7102. DEFINITIONS.

Chapter 136 of title 10, United States Code, as added by section 7001, is amended by adding after the table of sections the following:

"§ 2281. Definitions

"In this chapter:

"(1) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

SEC. 7103. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 136 of title 10, United States Code, as amended by section 7102, is further amended by adding after section 2281 the following new section:

"§ 2282. Preference for acquisition of commercial items

"(a) PREFERENCE.—The head of an agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items.

"(b) IMPLEMENTATION.—The head of an agency shall ensure that procurement officials in that agency, to the maximum extent practicable—

"(1) acquire commercial items to meet the needs of the agency;

"(2) require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items as components of items supplied to the agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items;

"(5) revise the agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) EXISTING OR PRIOR SOURCES OF NONDEVELOPMENTAL ITEMS.—(1) Notwithstanding subsection (a), an agency may, until five years after the date of the enactment of the Federal Acquisition Improvement Act of 1994, determine that it is in the Government's interests to permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item in a case in which a nondevelopmental item will compete with a commercial item under the same terms, conditions, and evaluation and award criteria.

"(2) Nondevelopmental items furnished by an existing or prior source that must be modified to meet the requirements of a solicitation for commercial items may be offered under such a solicitation, but only in a case in which the modifications—

"(A) are necessary to comply with the Government's solicitation requirements; and

"(B) do not significantly alter the function or essential physical characteristics of the items to be supplied.

"(3) The policies, procedures, solicitation provisions, and contract clauses applicable to commercial items under this chapter also shall apply to nondevelopmental items furnished by an existing or prior source that is permitted to participate in a competition conducted under this title.

"(d) PRELIMINARY MARKET RESEARCH.—(1) The head of an agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an agency shall use the results of market research to determine whether there are commercial items available that—

"(A) meet the agency's requirements;

"(B) could be modified to meet the agency's requirements; or

"(C) could meet the agency's requirements if those requirements were modified to a reasonable extent.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2325 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 7104. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 136 of title 10, United States Code, as amended by section 7103, is further amended by adding after section 2282 the following new section:

"§ 2283. Exception to cost or pricing data requirements for commercial items

"(a) EXEMPTION FROM SECTION 2306a IF PRICE BASED ON ADEQUATE PRICE COMPETITION OR ESTABLISHED PRICES.—In any procurement of a commercial item, when the agreed-upon price of the commercial item is based on adequate price competition or on established catalog or market prices of items sold in sufficient quantities to the general public—

"(1) the procurement shall be exempt from section 2306a of this title; and

"(2) to the maximum extent practicable, the head of the agency conducting the procurement may not require any additional information from the offeror to determine price reasonableness.

"(b) REQUIREMENT TO DETERMINE PRICE REASONABLENESS FOR NONCOMPETITIVE PROCUREMENTS.—In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by subsection (a) or by an exception in subsection (b) of section 2306a of this title, the contracting officer shall use price analysis to determine whether the price of the contract is fair and reasonable. If the contracting officer is able to determine through price analysis that the price is reasonable, the procurement shall be exempt from section 2306a of this title. Price analysis under this subsection shall be conducted by developing or obtaining from the offeror or contractor, or from another source or sources, in accordance with standards and procedures set forth in Federal Acquisition Regulations, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract.

"(c) AUTHORITY TO REQUEST COST OR PRICING DATA WHEN PRICE REASONABLENESS CANNOT BE DETERMINED.—In any case in which a contracting officer is unable to determine under subsection (b) that a price is reasonable, the contracting officer, with the prior approval of the head of the procuring activity, may require cost or pricing data under section 2306a of this title.

"(d) RIGHT TO AUDIT.—(1) The head of an agency is authorized to audit all documentation provided by an offeror under subsection (b) or (c) and all books and records of the offeror directly relating to such documentation, except that, if the offeror has made no representation as to the completeness of the documentation supplied, the head of the agency is not authorized to audit for completeness.

"(2) The authority under this subsection shall expire—

"(A) one year after the date of commencement of performance of the contract, or one year after the date of commencement of performance of the modification of the contract, with respect to which the information was provided; or

"(B) on such other date agreed upon by the parties at the time of contract award or contract definitization.

"(e) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall establish reasonable limitations on requests

under this section for sales data relating to commercial items.

"(f) FORM OF INFORMATION.—In conducting a price analysis, or in requiring any additional information from an offeror, a contracting officer may request only that information from an offeror that is in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of the item or items, or otherwise needed to establish a fair and reasonable price.

"(g) CONFIDENTIALITY.—All documentation received from an offeror, if not otherwise in the public domain and if requested by the offeror and marked as proprietary, shall be treated by the Government as confidential and exempt from disclosure to the extent permitted by section 552 of title 5.".

(b) CROSS REFERENCE.—Section 2306a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) EXCEPTIONS REGARDING COMMERCIAL ITEMS.—For provisions relating to exceptions for procurements of commercial items, see section 2283 of this title.".

SEC. 7105. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

Chapter 136 of title 10, United States Code, as amended by section 7104, is further amended by adding after section 2283 the following new section:

"§ 2284. Principle of construction with future laws

"A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 may not be construed as applicable to purchases of commercial items by an agency unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes a provision of this chapter.

SEC. 7106. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABLE PROVISIONS.—Chapter 136 of title 10, United States Code, as amended by section 7105, is further amended by adding after section 2284 the following new section:

"§ 2285. Inapplicability of certain provisions of law

"(a) PROVISIONS INAPPLICABLE TO PRIME CONTRACTORS.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any contract entered into by an agency for the procurement of a commercial item:

"(1) Section 2306(b) of this title (relating to prohibition on contingent fees).

"(2) Section 2320 of this title (relating to rights in technical data).

"(3) Section 2321 of this title (relating to validation of proprietary data restrictions).

"(4) Section 2324 of this title (relating to allowable costs).

"(5) Section 2384(b) of this title (relating to requirement to identify suppliers and sources of supplies).

"(6) Section 2393(d) of this title (relating to prohibition against doing business with certain offerors or contractors).

"(7) Section 2402 of this title (relating to prohibition on limitation of subcontractor direct sales).

"(8) Section 2408(a) of this title (relating to prohibition on persons convicted of defense contract-related felonies).

"(9) Section 2410b of this title (relating to contractor inventory accounting system standards).

"(10) Section 843 of Public Law 103–160 (107 Stat. 1720) (relating to reports of defense contractors of dealings with terrorist countries).

"(11) Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) (relating to cost accounting standards board).

"(12) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) (relating to procurement integrity).

"(13) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.).

"(b) PROVISIONS INAPPLICABLE TO SUBCONTRACTORS AND OTHER ENTITIES.—

"(1) LAWS INAPPLICABLE.—The following provisions of law (and regulations prescribed under such provisions) shall not apply to any entity described in paragraph (2):

"(A) Each provision of law listed under subsection (a).

"(B) Section 2534 of this title (relating to miscellaneous limitations on procurement).

"(2) COVERED ENTITIES.—Paragraph (1) applies to each of the following:

"(A) Any division, subsidiary, or affiliate of a prime contractor (other than the division, subsidiary, or affiliate that is contracting with the Government under the prime contract) or of a subcontractor of a prime contractor, if such division, subsidiary, or affiliate is furnishing a commercial item to the prime contractor or subcontractor for purposes of carrying out the prime contract or subcontract.

"(B) Any subcontractor or supplier of a prime contractor, if the subcontractor or supplier is furnishing a commercial item to the prime contractor for purposes of carrying out the prime contract.".

SEC. 7107. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4032(a), is further amended by inserting before the period at the end of the sentence added by that section the following: "or to a contract for the acquisition of commercial items".

(b) INAPPLICABILITY OF REGULATIONS ON RIGHTS IN TECHNICAL DATA.—Section 2320 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The regulations prescribed under subsection (a) shall not apply to contracts for the purchase of commercial items.".

(c) INAPPLICABILITY OF REQUIREMENT FOR VALIDATION OF PROPRIETARY DATA RESTRICTIONS.– Section 2321(a) of title 10, United States Code, is amended by inserting before the period at the end the following: ", other than a contract for supplies or services that are commercial items".

(d) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items.".

(e) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4032(d), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items.".

(f) INAPPLICABILITY OF PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4032(e), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the United States being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(g) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end of paragraph (4), as added by section 4032(f), the following: "The term does not include a contract for the purchase of commercial items.".

(h) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended by adding after subsection (b), as added by section 4032(g), the following:

"(c) The regulations prescribed pursuant to subsection (a) shall not apply to a contract for the purchase of commercial items.".

Subtitle C—Civilian Agency Acquisitions

SEC. 7201. DEFINITIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1553, is further amended by adding after section 313 the following new section:

"SEC. 314. DEFINITIONS RELATING TO PROCUREMENT OF COMMERCIAL ITEMS.

"As used in this title, the terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.".

SEC. 7202. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7201, is further amended by adding after section 314 the following new section:

"SEC. 314A. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

"(a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) EXISTING OR PRIOR SOURCES OF NONDEVELOPMENTAL ITEMS.—(1) Notwithstanding subsection (a), the head of an executive agency may, until five years after the date of the enactment of the Federal Acquisition Improvement Act of 1994, determine that it is in the Government's interests to permit existing or prior sources of nondevelopmental items to participate in a competition for a commercial item in a case in which a nondevelopmental item will compete with a commercial item under the same terms, conditions, and evaluation and award criteria.

"(2) Nondevelopmental items furnished by an existing or prior source that must be modified to meet the requirements of a solicitation for commercial items may be offered under such a solicitation, but only in a case in which the modifications—

"(A) are necessary to comply with the Government's solicitation requirements; and

"(B) do not significantly alter the function or essential physical characteristics of the items to be supplied.

"(3) The policies, procedures, solicitation provisions, and contract clauses applicable to commercial items under this chapter also shall apply to nondevelopmental items furnished by an existing or prior source that is permitted to participate in a competition conducted under this title.

"(d) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.".

SEC. 7203. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7202, is further amended by adding after section 314A the following new section:

"SEC. 314B. EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.

"(a) EXEMPTION FROM SECTION 304B IF PRICE BASED ON ADEQUATE PRICE COMPETITION OR ESTABLISHED PRICES.—In any procurement of a commercial item, when the agreed-upon price of the commercial item is based on adequate price competition or on established catalog or market prices of items sold in sufficient quantities to the general public—

"(1) the procurement shall be exempt from section 304B of this title; and

"(2) to the maximum extent practicable, the executive agency may not require any additional information from the offeror to determine price reasonableness.

"(b) REQUIREMENT TO DETERMINE PRICE REASONABLENESS FOR NONCOMPETITIVE PROCUREMENTS.—In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by subsection (a) or by an exception in subsection (b) of section 304B, the contracting officer shall use price analysis to determine whether the price is fair and reasonable. If the contracting officer is able to determine through price analysis that the price is reasonable, the procurement shall be exempt from section 304B of this title. Price analysis under this section shall be conducted by developing or obtaining from the offeror or contractor, or from another source or sources, in accordance with standards and procedures set forth in Federal Acquisition Regulations, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract.

"(c) AUTHORITY TO REQUEST COST OR PRICING DATA WHEN PRICE REASONABLENESS CANNOT BE DETERMINED.—In any case in which a contracting officer is unable to determine under subsection (b) that a price is reasonable, the contracting officer, with the prior approval of the head of the procuring activity, may require cost or pricing data under section 304B.

"(d) RIGHT TO AUDIT.—(1) An executive agency is authorized to audit all documentation provided by an offeror under subsection (b) or (c) and all books and records of the offeror directly relating to such documentation, except that, if the offeror has made no representation as to the completeness of the documentation supplied, the executive agency is not authorized to audit for completeness.

"(2) The authority under this subsection shall expire—

"(A) one year after the date of commencement of performance of the contract, or one year after the date of commencement of performance of the modification of the contract, with respect to which the information was provided; or

"(B) on such other date agreed upon by the parties at the time of contract award or contract definitization.

"(e) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall establish reasonable limitations on requests under this section for sales data relating to commercial items.

"(f) FORM OF INFORMATION.—In conducting a price analysis, or in requiring any additional information from an offeror, a contracting officer may request only that information from an offeror that is in the form regularly maintained by the offeror in commercial operations, adequate to demonstrate the market price of the item or items, or otherwise needed to establish a fair and reasonable price.

"(g) CONFIDENTIALITY.—All documentation received from an offeror, if not otherwise in the public domain and if requested by the offeror and marked as proprietary, shall be treated by the Government as confidential and exempt from disclosure to the extent permitted by section 552 of title 5.".

(b) CROSS REFERENCE.—Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 1251, is amended by adding at the end the following new subsection:

"(h) EXCEPTIONS REGARDING COMMERCIAL ITEMS.—For provisions relating to exceptions for procurements of commercial items, see section 314B of this title.".

SEC. 7204. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7203, is further amended by adding after section 314B the following new section:

"SEC. 314C. PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.

"A provision of law enacted after the date of the enactment of the Federal Acquisition Improvement Act of 1994 may not be construed as applicable to purchases of commercial items by an executive agency unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes sections 314 through 314D of this title.".

SEC. 7205. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 7204, is further amended by adding after section 314C the following new section:

"SEC. 314D. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

"(a) PROVISIONS INAPPLICABLE TO PRIME CONTRACTORS.—Procurements of commercial items shall not be subject to the following provisions of law (or regulations prescribed under such provisions):

"(1) Section 303G of this Act (relating to prohibition on limitation of subcontractor direct sales).

"(2) Section 304(a) of this Act (relating to prohibition on contingent fees).

"(3) Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) (relating to cost accounting standards board).

"(4) Section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)) (relating to procurement integrity).

"(5) The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.).

"(b) PROVISIONS INAPPLICABLE TO SUBCONTRACTORS AND OTHER ENTITIES.—

"(1) LAWS INAPPLICABLE.—Each provision of law listed under subsection (a) (and regulations prescribed under each such provision) shall not apply to any entity described in paragraph (2).

"(2) COVERED ENTITIES.—Paragraph (1) applies to each of the following:

"(A) Any division, subsidiary, or affiliate of a prime contractor (other than the division, subsidiary, or affiliate that is contracting with the Government under the prime contract) or of a subcontractor of a prime contractor, if such division, subsidiary, or affiliate is furnishing a commercial item to the prime contractor or subcontractor for purposes of carrying out the prime contract or subcontract.

"(B) Any subcontractor or supplier of a prime contractor, if the subcontractor or supplier is furnishing a commercial item to the prime contractor for purposes of carrying out the prime contract.

SEC. 7206. CONFORMING AMENDMENTS RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section

4042(a), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4042(b), is further amended by inserting before the period at the end of the sentence added by section 4042(b) the following: "or to a contract for the acquisition of commercial items".

Subtitle D—Acquisitions Generally

SEC. 7301. CONFORMING AMENDMENT RELATING TO INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) COST ACCOUNTING STANDARDS BOARD.—Section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422) is amended in paragraph (2) by striking out "where the price negotiated" and all that follows through "(B)" and inserting in lieu thereof "(A) for the procurement of commercial items, or (B) for which the price negotiated is based on".

(b) CERTIFICATION REQUIREMENTS.—Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(7)(A)), as amended by section 4051, is further amended by inserting before the period at the end the following: ", for the procurement of goods and services other than commercial items".

(c) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152 of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.), as amended by section 4054, is further amended by inserting after the matter inserted by such section 4057 the following: ", other than a contract for the procurement of commercial items as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)),".

SEC. 7302. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The Administrator shall prescribe regulations defining limited circumstances in which flexible deadlines can be used under paragraph (3) for the submission of bids or proposals for the procurement of commercial items.".

SEC. 7303. ADDITIONAL RESPONSIBILITIES FOR ADVOCATES FOR COMPETITION.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 7304. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) section 315 of the Federal Property and Administrative Services Act of 1949 or section 2323 of title 10, United States Code;

(2) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(3) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(4) section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or any other provision of that Act; or

(5) the Act of June 25, 1938 (41 U.S.C. 46-48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the "Javits-Wagner-O'Day Act".

SEC. 7305. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 8001. TEST PROGRAM.

(a) IN GENERAL.—The Administrator for Federal Procurement Policy (in this section referred to as the "Administrator") may conduct a program of tests of alternative and innovative procurement procedures. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413). No more than 6 such tests shall be conducted under this authority.

(b) DESIGNATION OF AGENCIES.—Each test conducted pursuant to subsection (a) shall be limited to not more than 2 specific contracting activities in an agency designated by the Administrator. Each agency so designated shall select the contracting activities participating in the test with the approval of the Administrator and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of tests within that agency.

(c) TEST REQUIREMENTS.—Tests conducted under subsection (a)—

(1) shall be developed and structured by the Administrator or by the agency senior procurement executives designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act in close coordination with the Administrator;

(2) shall be for a period of not greater than 4 years;

(3) shall be limited to specific programs of agencies or specific acquisitions;

(4) may not include any test with a total estimated life-cycle cost to the Federal Government greater than $100,000,000;

(5) shall include—

(A) a test by the National Aeronautics and Space Administration of simplified procurement procedures for acquisitions with an estimated annual total obligation of funds of $500,000 or less;

(B) a test by the General Services Administration of expedited methods for procuring automatic data processing equipment commodities; and

(C) a test by at least one agency of streamlined procedures for competition among interested sources participating in the tailoring of a solicitation for the purchase of commercial products; and

(6) shall not include any procurement the cost of which is expected to exceed $5,000,000 (including options).

(d) LIMITATION ON TOTAL VALUE OF CONTRACTS UNDER PROGRAM.—

(1) LIMITATION.—The Administrator shall ensure that the total amount obligated under contracts awarded pursuant to the program under this section does not exceed $600,000,000.

(2) MONITORING.—The Administrator shall monitor the value of contracts awarded pursuant to the program under this section.

(3) PROHIBITION ON AWARDS IN EXCESS OF LIMIT.—No contract may be awarded under the program under this section if the award of the contract would result in obligation of more than $600,000,000 under contracts under this section.

(e) PROCEDURES AUTHORIZED.—Tests conducted under this section may include any of the following procedures:

(1) Publication of agency needs before drafting of a solicitation.

(2) Screening of sources and competition among capable vendors.

(3) Issuance of draft solicitations for comment.

(4) Streamlined solicitations, with a minimized number of evaluation factors and information required from vendors, abbreviated periods for submission of offers, and page limitations on offers.

(5) Limitation of source selection factors to—

(A) cost to the Federal Government;

(B) past experience; and

(C) quality of the contents of the offer.

(6) Evaluation of proposals by small teams of highly qualified people, limited to 30 days.

(7) Competition among sources of preevaluated products.

(8) Alternative notice and publication requirements.

(9) A process in which—

(A) the competitive process is initiated by a notice in the Commerce Business Daily synopsizing the needs of the executive agency conducting the test, in functional and performance terms, with other specifications provided for guidance only;

(B) the notice invites interested sources to submit information or samples showing their product's suitability for those needs (with price quotations) or, if appropriate, showing the sources' technical capability, past performance, product supportability, or other qualifications (with appropriate consideration to rates and other cost-related factors);

(C) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submittals made by interested sources and, if the officials determine necessary, after consultation with those sources; and

(D) the contract is awarded after a streamlined competition limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on those qualification-based factors included in an invitation to submit information pursuant to subparagraph (B).

(f) TEST PLAN.—Not later than 60 days before implementing any test program under this section, the Administrator shall—

(1) provide a detailed test plan, including lists of any regulations that are to be waived, and any written determination under subsection (g)(1)(B) to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate;

(2) provide a copy of the plan to the appropriate authorizing committees of the House of Representatives and the Senate; and

(3) publish the plan in the Federal Register and provide an opportunity for public comment.

(g) WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—For purposes of a test conducted under subsection (a), the Administrator may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct any test of any of the 9 procedures described in subsection (e).

(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law referred to in paragraph (1) are the following:

(A) Section 2304 of title 10, United States Code.

(B) Section 2305 of title 10, United States Code.

(C) Section 2319 of title 10, United States Code.

(D) Section 3709 of the Revised Statutes (41 U.S.C. 5).

(E) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(F) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(G) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(H) Section 310 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 260).

(I) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(J) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a).

(K) Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b).

(L) Section 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253c).

(M) Section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

(N) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416).

(3) PROPOSAL FOR ADDITIONAL WAIVER.—If the Administrator determines that the conduct of a test requires the waiver of a law not listed in paragraph (2) or requires approval of an estimated dollar amount not permitted under subsection (c)(4), the Administrator may propose legislation to authorize the waiver or grant the approval. Before proposing such legislation, the Administrator may provide and publish a test plan as described in subsection (f). If Congress does not authorize the waiver or grant the approval within 120 days after the date of receipt of the proposal, the proposal shall be deemed to be withdrawn. A proposal not approved within such 120 days may be resubmitted to Congress under this paragraph at any time.

(h) REPORTS AND REVIEWS.—

(1) ADMINISTRATOR.—The Administrator shall report to the Congress on the results of each test conducted under subsection (a).

(2) COMPTROLLER GENERAL.—The Comptroller General of the United States shall review each test conducted under subsection (a) and report to the Congress on each test and shall report annually to the Congress on the conduct of and results of all tests conducted under subsection (a).

(i) EXPIRATION OF AUTHORITY.—The authority to conduct tests under this section and to award contracts under such tests shall expire on October 1, 1998. Contracts entered into before October 1, 1998, pursuant to a test shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(j) FEDERAL AVIATION ADMINISTRATION ACQUISITION PILOT PROGRAM.—(1) The Administrator shall delegate to the Secretary of Transportation authority to conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code.

(2) The authority delegated under paragraph (1) shall include authority for the Secretary of Transportation—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(B) to apply to a procurement of noncommercial items under such program—

(i) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

(3) Paragraph (2) applies with respect to—

(A) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act; and

(B) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

(4) The Administrator may use the waiver authority provided under subsection (g) to waive the applicability of any provision referred to in paragraph (1) of that subsection to the program designated by the Secretary of Transportation under this subsection.

(k) DEPARTMENT OF DEFENSE ACQUISITION PILOT PROGRAMS.—

(1) IN GENERAL.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(A) FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER (FSCATT).—All contracts directly relating to the procurement of a training simulation system, including related hardware, software, and subsystems, to perform collective training of field artillery gunnery teams, with development of software as required to generate the training exercises.

(B) JOINT DIRECT ATTACK MUNITION (JDAM I).—All contracts directly relating to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit to enhance the delivery accuracy of 1000-pound and 2000-pound bombs in inventory.

(C) COMMERCIAL-DERIVATIVE AIRCRAFT (CDA).—

(i) All contracts related to acquisition or upgrading of commercial-derivative aircraft for use in meeting future Air Force airlift, tanker, and airborne warning and control system requirements.

(ii) For purposes of this subparagraph, the term "commercial-derivative aircraft" means any of the following:

(I) Any aircraft that is of a type customarily used in the course of normal business operations for other than Federal Government purposes, that has been issued a type certificate by the Administrator of the Federal Aviation Administration, and that has been sold or leased for use in the commercial marketplace or that has been offered for sale or lease for use in the commercial marketplace.

(II) Any aircraft that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy the criteria in subclause (I).

(D) COMMERCIAL-DERIVATIVE ENGINE.—The commercial derivative engine program with respect to all contracts directly related to the acquisition of (i) commercially derived engines (including spare engines), logistics support equipment, technical orders, management data, and initial spare parts for use in supporting the purchase of commercial-derivative aircraft to meet future Air Force airlift and tanker requirements, including engine replacement and upgrades.

(2) CONDUCT OF DEFENSE ACQUISITION PROGRAMS.—In the case of each defense acquisition program designated under paragraph (1) for participation in the Defense Acquisition Pilot Program, the Secretary of Defense shall—

(A) develop guidelines and procedures for carrying out the program and the criteria to be used in measuring the success of the program;

(B) evaluate the potential costs and benefits which may be derived from the innovative procurement methods and procedures tested under the program; and

(C) develop the methods to be used to analyze the results of the program.

(3) SPECIAL AUTHORITY.—The authority delegated under paragraph (1) may include authority for the Secretary of Defense—

(A) to apply any amendment or repeal of a provision of law made in this Act to the pilot programs before the effective date of such amendment or repeal; and

(B) to apply to a procurement of noncommercial items under such programs—

(i) any authority provided in such Act (or in an amendment made by a provision of such Act) to waive a provision of law in the case of commercial items, and

(ii) any exception applicable under such Act (or an amendment made by a provision of such Act) in the case of commercial items, before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

(4) APPLICABILITY.—(A) Paragraph (3) applies with respect to—

(i) a contract that is awarded or modified during the period described in subparagraph (B); and

(ii) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

(B) The period referred to in subparagraph (A) is the period that begins 45 days after the date of the enactment of this Act and ends on September 30, 1998.

SEC. 8002. STUDY OF PARTICIPATION BY CERTAIN SMALL BUSINESSES IN FEDERAL PROCUREMENT.

(a) STUDY.—The Administrator for Federal Procurement Policy shall conduct a study of—

(1) the degree of participation by small businesses owned and controlled by socially and economically disadvantaged individuals in procurements conducted by executive agencies, other than agencies in the Department of Defense; and

(2) the extent of compliance by those executive agencies with the goals for participation by such businesses required by Office of Federal Procurement Policy policy letter 91-1, relating to Government-wide small business and small disadvantaged business goals for procurement contracts.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit a report on the study required under subsection (a) to the Committee on Government Operations and the Committee on Small Business of the House of Representatives, and to the Committee on Governmental Affairs and the Committee on Small Business of the Senate. The report shall include recommendations to facilitate the provision of authority to executive agencies, other than agencies in the Department of Defense, to conduct procurement set asides for small businesses owned and controlled by socially and economically disadvantaged individuals, and on improved outreach programs to increase the participation by such businesses in procurements conducted by those executive agencies.

"§ 2323. Contract goal for small disadvantaged businesses and certain institutions of higher education

"(a) GOAL.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each of fiscal years 1987 through 2000 for the total combined amount obligated for contracts and subcontracts entered into with—

"(A) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;

"(B) historically Black colleges and universities; and

"(C) minority institutions (as defined in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058)), including any nonprofit research institution that was an integral part of a historically Black college or university before November 14, 1986.

"(2) The head of the agency shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities and minority institutions in order to increase the participation of such colleges and universities in the program provided for by this section.

"(3) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide procedures or guidelines for contracting officers to set goals which agency prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the agency's program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.

"(b) AMOUNT.—

"(1) DEPARTMENT OF DEFENSE.—With respect to the Department of Defense, the requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

"(A) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

"(B) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

"(C) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

"(D) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

"(2) COAST GUARD.—With respect to the Coast Guard, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the Coast Guard for such fiscal year.

"(3) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—With respect to the National Aeronautics and Space Administration, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the National Aeronautics and Space Administration for such fiscal year.

"(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the head of the agency shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities and minority institutions, shall also provide infrastructure assistance.

"(2) Technical assistance provided under this section shall include information about the program, advice about agency procurement procedures, instruction in preparation of proposals, and other such assistance as the agency head considers appropriate. If the resources of the agency are inadequate to provide such assistance, the agency head may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, acquisition agencies, and prime contractors. Agency contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

"(3) Infrastructure assistance provided by the Department of Defense under this section to historically Black colleges and universities and to minority institutions may include programs to do the following:

"(A) Establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(B) Make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense.

"(C) Establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense.

"(D) Award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(E) Attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense.

"(F) Equip and renovate laboratories for the performance of defense research.

"(G) Expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense.

"(H) Provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

"(4) The head of the agency shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.

"(d) APPLICABILITY.—Subsection (a) does not apply to the Department of Defense—

"(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

"(2) if the Secretary notifies Congress of such determination and the reasons for such determination.

"(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a):

"(1)(A) The head of the agency shall—

"(i) ensure that substantial progress is made in increasing awards of agency contracts to entities described in subsection (a)(1);

"(ii) exercise his utmost authority, resourcefulness, and diligence;

"(iii) in the case of the Department of Defense, actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal; and

"(iv) in the case of the Coast Guard and the National Aeronautics and Space Administration, actively monitor and assess the

progress of the prime contractors of the agency in attaining such goal.

"(B) In making the assessment under clauses (iii) and (iv) of subparagraph (A), the agency head shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal.

"(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the agency head shall make advance payments under section 2307 of this title to contractors described in subsection (a). The Federal Acquisition Regulation shall provide guidance to contracting officers for making advance payments to entities described in subsection (a)(1) under such section.

"(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the agency head may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act) and partial set asides for entities described in subsection (a)(1), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a). The agency head shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.

"(4) To the extent practicable, the agency head shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

"(5) The agency head shall prescribe regulations which provide for the following:

"(A) Procedures or guidance for contracting officers to provide incentives for prime contractors referred to in subsection (a)(3) to increase subcontractor awards to entities described in subsection (a)(1).

"(B) A requirement that contracting officers emphasize the award of contracts to entities described in subsection (a)(1) in all industry categories, including those categories in which such entities have not traditionally dominated.

"(C) Guidance to agency personnel on the relationship among the following programs:

"(i) The program implementing this section.

"(ii) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(iii) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

"(D) With respect to an agency procurement which is reasonably likely to be set aside for entities described in subsection (a)(1), a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

"(E) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and under the small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)) are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of subsection (a).

"(F) Implementation of this section in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(G) A requirement that one factor used in evaluating the performance of a contracting officer be the ability of the officer to increase contract awards to entities described in subsection (a)(1).

"(H) Increased technical assistance to entities described in subsection (a)(1).

"(f) PENALTIES AND REGULATIONS RELATING TO STATUS.—(1) Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by imprisonment for not more than one year, or a fine under title 18, or both.

"(2) The Federal Acquisition Regulation shall prohibit awarding a contract under this section to an entity described in subsection (a)(1) unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act (15 U.S.C. 644(o)(1)).

"(g) INDUSTRY CATEGORIES.—(1) To the maximum extent practicable, the head of the agency shall—

"(A) ensure that no particular industry category bears a disproportionate share of the contracts awarded to attain the goal established by subsection (a); and

"(B) ensure that contracts awarded to attain the goal established by subsection(a) are made across the broadest possible range of industry categories.

"(2) Under procedures prescribed by the head of the agency, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity for the purposes of this section. Upon making a determination that a particular industry category is bearing a disproportionate share, the agency head shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.

"(h) COMPLIANCE WITH SUBCONTRACTING PLAN REQUIREMENTS.—(1) The Federal Acquisition Regulation shall contain regulations to ensure that potential contractors submitting sealed bids or competitive proposals to the agency for procurement contracts to be awarded under the program provided for by this section are complying with applicable subcontracting plan requirements of section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

"(2) The regulations required by paragraph (1) shall ensure that, with respect to a sealed bid or competitive proposal for which the bidder or offeror is required to negotiate or submit a subcontracting plan under section 8(d) of the Small Business Act (15 U.S.C. 637(d)), the subcontracting plan shall be a factor in evaluating the bid or proposal.

"(i) ANNUAL REPORT.—(1) Not later than December 15 of each year, the head of the agency shall submit to Congress a report on the progress of the agency toward attaining the goal of subsection (a) during the preceding fiscal year.

"(2) The report required under paragraph (1) shall include the following:

"(A) A full explanation of any progress toward attaining the goal of subsection (a).

"(B) A plan to achieve the goal, if necessary.

"(3) The report required under paragraph (1) shall also include the following:

"(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

"(B) An analysis of the impact that subsection (a) shall have on the ability of small business concerns not owned and controlled by socially and economically disadvantaged individuals to compete for contracts with the agency.

"(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

"(j) DEFINITIONS.—In this section:

"(1) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.".

SEC. 8004. EDUCATION AND TRAINING.

Section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) establish policies and procedures for the establishment and implementation of education and training programs authorized by this Act, including the establishment and implementation of training, in conjunction with the General Services Administration, for critical procurement personnel designed to increase the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, women, and other minorities in procurement activities conducted by an executive agency.".

SEC. 8005. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

SEC. 8006. SENSE OF CONGRESS ON NEGOTIATED RULEMAKING.

(a) FINDINGS.—The Congress finds the following:

(1) The use of negotiated rulemaking or similar policy discussion group techniques is an appropriate tool for—

(A) fostering effective implementation of, and compliance with, laws and regulations;

(B) avoiding litigation; and

(C) achieving more productive and equitable relationships between the Federal Government and the regulated segments of the private sector.

(2) The use of negotiated rulemaking or similar techniques in Federal procurement regulations could be appropriate given the extreme complexity and intricate interactions between buyer and seller in Federal procurements.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in prescribing acquisition regulations, the Federal Acquisition Regulatory Council should consider using negotiated rulemaking procedures in accordance with sections 561 through 570 of title 5, United States Code, or similar techniques intended to achieve the benefits described in subsection (a)(1).

SEC. 8007. VENDOR AND EMPLOYEE EXCELLENCE AWARDS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out the period at the end of paragraph (10) (as redesignated by section 4011(b)(2)) and inserting in lieu thereof a semicolon; and

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

"(11) providing for a Government-wide award to recognize and promote vendor excellence; and

"(12) providing for a Government-wide award to recognize and promote excellence in officers and employees of the Federal Government serving in procurement-related positions.".

SEC. 8008. CODIFICATION OF ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services (as defined in the Federal Information Resources Management Regulation prescribed by the Administrator of General Services) unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services.

"(iii) Technical support of research and development activities.

"(iv) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—

(1) DOD SPECIFIC LAW.—Section 2212 of title 10, United States Code, is repealed.

(2) GOVERNMENT-WIDE LAW.—Section 1114 of title 31, United States Code, is repealed.

(3) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by striking out the item relating to section 2212. The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by striking out the item relating to section 1114.

SEC. 8009. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TABLE OF CONTENTS AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The first section of the Office of Federal Procurement Policy Act (41 U.S.C. 401 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Office of Federal Procurement Policy Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Findings and purpose.
"Sec. 4. Definitions.
"Sec. 4A. Simplified acquisition threshold.
"Sec. 4B. Procedures applicable to purchases below micro-purchase threshold.
"Sec. 5. Office of Federal Procurement Policy.
"Sec. 6. Authority and functions of the Administrator.
"Sec. 7. Administrative powers.
"Sec. 8. Responsiveness to Congress.
"Sec. 9. Effect on existing laws.
"Sec. 10. Effect on existing regulations.
"Sec. 11. Authorization of appropriations.
"Sec. 12. Delegation.
"Sec. 14. Access to information.
"Sec. 15. Tests of innovative procurement methods and procedures.
"Sec. 16. Executive agency responsibilities.
"Sec. 18. Procurement notice.
"Sec. 19. Record requirements.
"Sec. 20. Advocates for competition.
"Sec. 21. Rights in technical data.
"Sec. 22. Publication of proposed regulations.
"Sec. 23. Contracting functions performed by Federal personnel.
"Sec. 24. Travel expenses of Government contractors.
"Sec. 25. Federal Acquisition Regulatory Council.
"Sec. 26. Cost Accounting Standards Board.
"Sec. 27. Procurement integrity.
"Sec. 28. Advocate for the Acquisition of Commercial Products.
"Sec. 29. Nonstandard contract clauses.
"Sec. 30. Federal acquisition computer network (FACNET).".

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The first section of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Property and Administrative Services Act of 1949'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Definitions.

"TITLE I—ORGANIZATION

"Sec. 101. General Services Administration.
"Sec. 102. Transfer of affairs of Bureau of Federal Supply.
"Sec. 103. Transfer of affairs of the Federal Works Agency.
"Sec. 104. Records management: Transfer of the National Archives.
"Sec. 106. Redistribution of functions.
"Sec. 107. Transfer of funds.
"Sec. 109. General supply fund.
"Sec. 110. Information Technology Fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.

"TITLE II—PROPERTY MANAGEMENT

"Sec. 201. Procurement, warehousing, and related activities.
"Sec. 202. Property utilization.
"Sec. 203. Disposal of surplus property.
"Sec. 204. Proceeds from transfer or disposition of property.
"Sec. 205. Policies, regulations, and delegations.
"Sec. 206. Surveys, standardization, and cataloging.
"Sec. 207. Applicability of antitrust laws.
"Sec. 208. Employment of personnel.
"Sec. 209. Civil remedies and penalties.
"Sec. 210. Operation of buildings and related activities.
"Sec. 211. Motor vehicle identification and operation.
"Sec. 212. Reports to Congress.

"TITLE III—PROCUREMENT PROCEDURE

"Sec. 301. Declaration of purpose.
"Sec. 302. Application and procurement methods.
"Sec. 302A. Simplified acquisition threshold.
"Sec. 302B. Implementation of FACNET capability.
"Sec. 303. Competition requirements.
"Sec. 303A. Planning and solicitation requirements.
"Sec. 303B. Evaluation and award.
"Sec. 303C. Encouragement of new competition.
"Sec. 303D. Validation of proprietary data restrictions.
"Sec. 303F. Economic order quantities.
"Sec. 303G. Prohibition of contractors limiting subcontractor sales directly to the United States.
"Sec. 303H. Severable services contracts for periods crossing fiscal years.
"Sec. 304. Contract requirements.
"Sec. 304A. Multiyear contracts.
"Sec. 304B. Cost or pricing data: truth in negotiations.
"Sec. 304C. Examination of records of contractor.
"Sec. 305. Contract financing.
"Sec. 306. Allowable costs.
"Sec. 307. Administrative determinations and delegations.
"Sec. 309. Definitions.
"Sec. 310. Statutes not applicable.
"Sec. 311. Cooperative agreements for basic, applied, and advanced research.
"Sec. 312. Assignment and delegation of procurement functions and responsibilities.
"Sec. 313. Determinations and decisions.
"Sec. 314. Definitions relating to procurement of commercial items.
"Sec. 314A. Preference for acquisition of commercial items and other nondevelopmental items.
"Sec. 314B. Pricing documentation for commercial items.
"Sec. 314C. Principle of construction with future laws.
"Sec. 314D. Inapplicability of certain provisions of law.
"Sec. 315. Contract goal for small disadvantaged businesses and certain institutions of higher education.

"TITLE IV—FOREIGN EXCESS PROPERTY

"Sec. 401. Disposal of foreign excess property.

"Sec. 402. Methods and terms of disposal.
"Sec. 403. Proceeds; foreign currencies.
"Sec. 404. Miscellaneous provisions.
"TITLE VI—GENERAL PROVISIONS
"Sec. 601. Applicability of existing procedures.
"Sec. 602. Repeal and saving provisions.
"Sec. 603. Authorization for appropriations and transfer of authority.
"Sec. 604. Separability.
"Sec. 605. Effective date.
"TITLE VIII—URBAN LAND UTILIZATION
"Sec. 801. Short title.
"Sec. 802. Declaration of purpose and policy.
"Sec. 803. Disposal of urban lands.
"Sec. 804. Acquisition or change of use of real property.
"Sec. 805. Waiver during national emergency.
"Sec. 806. Definitions.
"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS
"Sec. 901. Definitions.
"Sec. 902. Policy.
"Sec. 903. Requests for data on architectural and engineering services.
"Sec. 904. Negotiation of contracts for architectural and engineering services.
"Sec. 905. Short title.".

(b) AMENDMENTS FOR STYLISTIC CONSISTENCY.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(c) REPEALS OF EXECUTED PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended—

(1) by striking out section 13; and

(2) by striking out the first section 15.

(d) CROSS REFERENCE CORRECTIONS.—Section 3552 of title 31, United States Code, is amended—

(1) by striking out "section 111(h)" and inserting in lieu thereof "section 111(f)"; and

(2) by striking out "759(h)" and inserting in lieu thereof "759(f)".

(e) CONSISTENCY OF TERMINOLOGY WITH CUSTOMARY USAGE.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(f) ENACTMENT OF POPULAR NAMES OF CERTAIN ACTS.—

(1) BROOKS ARCHITECT-ENGINEERS ACT.—Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541–544) is amended by adding at the end the following new section:

"SEC. 905. SHORT TITLE.

"This title may be cited as the 'Brooks Architect-Engineers Act'.".

(2) BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h) This section may be cited as the 'Brooks Automatic Data Processing Act'.".

(3) BUY AMERICAN ACT.—The Act of March 3, 1933 (41 U.S.C. 10a–10c), commonly referred to as the "Buy American Act", is amended by adding at the end the following new section:

"SEC. 5. This Act may be cited as the 'Buy American Act'.".

(4) JAVITS-WAGNER-O'DAY ACT.—The Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), is amended by adding at the end the following new section:

"SHORT TITLE

"SEC. 7. This Act may be cited as the 'Javits-Wagner-O'Day Act'.".

TITLE IX—EFFECTIVE DATES AND REGULATIONS

SEC. 9001. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall apply with respect to any contract for which a solicitation for bid or proposal is issued after—

(1) 30 days have expired after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002; or

(2) 270 days have expired after the date of the enactment of this Act;

whichever is earlier.

(b) SPECIFIC EFFECTIVE DATES.—(1) Titles III and VI of this Act, and the amendments made by such titles, shall take effect on the date of the enactment of this Act.

(2) Subtitle D of title I of this Act, and the amendments made by such subtitle (relating to procurement protests), shall apply with respect to any protest filed after the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 9002. REGULATIONS.

Not later than 240 days after the date of the enactment of this Act, the Federal Acquisition Regulation (referred to in section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c))) shall be revised, in final form, to implement this Act and the amendments made by this Act.

SEC. 9003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than 180 days after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002, the Comptroller General shall submit to Congress a report evaluating compliance with such section 9002.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than 18 months after issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 9002, the Comptroller General shall submit to Congress a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

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

Mr. Speaker, today the House takes up consideration of H.R. 2238, the Federal Acquisition Improvement Act of 1994. This bill makes sweeping reforms to the Federal procurement system, reforms that will make it easier for businesses, large and small, to work with the Government, and reforms that will ultimately allow the Government to deliver services more professionally. It is the boldest modern-day attempt to revolutionize how the Government does business by greatly streamlining and simplifying its buying practices.

The Federal procurement system—including the way it is implemented—touches on every aspect of government. It affects the price agencies pay for the items they need to carry out their missions. It affects whether the Department of Defense has the right equipment on hand at the right time, and it affects whether agencies are able to properly serve the taxpayers. With over $200 billion flowing through the procurement system each year, it is imperative that we make every effort to eliminate the inefficiencies that frustrate the business of government and waste the taxpayers' money. H.R. 2238 will make these needed reforms a reality.

I am equally proud of the fact that H.R. 2238 makes these reforms without undermining key features of the current procurement statutes that protect the taxpayers. These features, such as full and open competition, help drive down costs. They help ensure that the taxpayers' dollar is spent, not on the basis of favoritism, but on the basis of fairness. They also allow small businesses to compete against large corporations—which is vital to the Nation's economy.

From the very start, our goal has been to simplify and streamline the process, while strengthening the principles that help keep government business dealings honest and above board. I am convinced that we have succeeded on both fronts.

Mr. Speaker, over the past several years the Committee on Government Operations has been a champion of the need for procurement reform. In the last Congress, the committee's procurement bill, H.R. 3161, passed the House in the final days of the session. Unfortunately, the Senate was unable to take up consideration of the bill in time to secure its final passage. It is gratifying, just the same, to see how much of that bill was ultimately adopted by the Senate and the Vice President's National Performance Review. H.R. 2238, the bill before us today, builds upon the committee's earlier efforts and is an unprecedented reform proposal.

Members of the Government Operations Committee and the staff have invested countless hours in the

crafting of this bill. They have worked in a truly bipartisan spirit of cooperation. Our esteemed colleague from Pennsylvania and the ranking minority member on the committee, Representative BILL CLINGER, deserves special praise for all that he has done to make this effort succeed. His counsel has been invaluable and his dedication is very much appreciated.

We have worked closely with Chairman DELLUMS, and other members of the Armed Services Committee, to reform those portions of the procurement system that affect the Defense Establishment. We have worked with other interested Members of the House, and we have worked closely with our colleagues in the Senate—who earlier this month voted overwhelmingly in favor of S. 1587, the companion bill to H.R. 2238. We have worked closely with the administration which has made procurement reform a centerpiece in its effort to reinvent the way the Government does business. We have held hearings. We have met with representatives from Fortune 500 companies, small businesses, Federal agencies, and others who know first hand the many virtues and pitfalls of the current procurement system.

The result of this investment is apparent. H.R. 2238 enjoys bipartisan support from members of the Government Operations Committee, members of the Armed Services Committee, and many other Members of the House. The bill is supported by businesses throughout the country and it enjoys the full support of the administration.

In fact, President Clinton and Vice President GORE deserve an enormous amount of credit for the leadership they have shown. They have not only made Federal procurement reform a national priority through the National Performance Review, they have also taken action where they can. For example, President Clinton has directed executive agencies to transform the current procurement system from one that is based on mountains of paper, to one that is automated, efficient, and more accessible to all businesses. H.R. 2238 provides incentives for agencies to complete this promising initiative without delay.

The bill contains many provisions that are equally important and promising. For example, the bill would:

Encourage agencies to buy commercial goods and services—a measure that will eliminate redtape and lower costs;

Establish a simplified acquisition threshold at $100,000—streamlining thousands of contract actions; and

Authorize test programs that lay the groundwork for future innovative reforms to the procurement system.

□ 1300

We are delighted that this measure is now at the stage where it is ready to come before the full House for its final ratification.

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

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

Mr. Speaker, I rise in very strong support of the Federal Acquisition Improvement Act of 1994. It is also true that I had hoped we might have been able to delay consideration of this measure perhaps until tomorrow because of a matter that is still under discussion between the majority and the minority of the Committee on Armed Services. However, I am advised that there could be no guarantee that we would be able to consider this bill on suspension tomorrow. However, I am also advised that the matter is still in dispute or discussion between the majority and minority on the Armed Services Committee and would not be such that would cause Mr. SPENCE, the ranking member on the Armed Services Committee to vote against this legislation. I also regret he is not able to be here because of a scheduling conflict, to be here to participate in this debate, which is another reason I would have liked to have had this matter postponed until a time that Mr. SPENCE might be able to be here.

But I do understand the majority leadership wants to proceed with this matter, and I think indeed this is a matter that does need to be proceeded with. It is, frankly, overdue. I am referring to the glaring problems that we have had with the Federal procurement legislation. The legislation makes very significant improvements in a very complicated area, Federal procurement. Reforming the Federal procurement system is an extremely difficult and complex task because the procurement process is itself arcanely difficult and complex.

Nevertheless, this is an issue of prime importance to both American business and the American taxpayer.

The bill which we are considering today has been developed over a long period of time, as Chairman CONYERS indicated, over a long period of time and represents the coordinated efforts of the majority and minority of both the Government Operations Committee and the Armed Services Committee. It represents a balance of interests, I think, of both committees, and it does so in a bipartisan way. That was perhaps something we do not often see in this body to have that cooperation between two committees and between the majorities and minorities on both committees.

The bill builds upon H.R. 3161, which was approved by the House during the 102d Congress but was never passed by the other side of the Capitol. I commend and congratulate Chairman CONYERS for his relentless commitment to the matter of procurement reform and his dedication to pursuing this to its enactment, which I am confident is going to happen today. He has been the driving, leading force in this whole effort for many years.

The Federal Government spends approximately $200 billion a year on the procurement of goods and services. Despite this huge expenditure of money, the current procurement system remains complicated, confusing, and mind-boggling, frankly. It is burdened with an outmoded and fragmented statutory foundation and is encumbered by regulatory and procedural proliferation beyond comprehension. These burdens limit the Government's buying power, limit the pool of potential suppliers, including small businesses, by deterring thousands of firms from doing business with the Government, and jeopardize the financial health of those firms who are willing, in fact, to contract with the United States. And that number, frankly, is diminishing all the time because of the great complexity of the system. The time is now to overhaul the current system and greatly simplify and streamline it, goals which I think we have met in this legislation. The bill reflects many of the recommendations of the section 800 panel, a congressionally mandated panel of industry and Government officials charged with developing recommendations to streamline and simplify the procurement system. Consistent with the administration's National Performance Review, this bill contains many reforms advocated for years to enable the Government to act more like a business in the way that it buys its goods and services.

Mr. Speaker, as a cornerstone to this legislation is an emphasis on commercial product acquisition. The idea that the Government could benefit from broader use of commercial products has been discussed for many years. Numerous commissions, panels, and studies dating back more than 20 years, frankly, have recommended that Federal policies be revised to improve agencies' ability to buy off-the-shelf products. Cost savings, shortened delivery time, and improved access to privately developed advanced technology have been cited as the expected benefits from expanded procurement of commercial items. H.R. 2238 makes several amendments to Federal procurement law to encourage the purchase of commercial items by the Federal Government. This is perhaps the keystone of this legislation. It truly is the key to everything else that we accomplish. If we did nothing more than this, we would have made an enormous stride in reforming our procurement system.

□ 1310

But the bill also addresses certain problems faced every day by Government buyers and companies who sell goods and services to these buyers. Among other things, the bill first reduces paperwork burdens on the industry, something that we always talk

about but rarely do. Second, it simplifies the acquisition process for contracts under $100,000, which are now subject to a thicket of antiquated and some redundant overlapping requirements in regulations. Third, it improves communication between Government buyers and industry sellers. There has been a whole range of suspicion that has grown up between those trying to sell to the Government and those doing the buying because of the lack of an ability to communicate. It strengthens the bid protest remedy process for contractors who believe they have been unfairly eliminated from contracts. And finally it provides pilot program test authority for certain agencies for alternative and innovative procurement procedures, and among those agencies would be the Federal Aviation Administration about which there has been much controversy about the procurement procedures followed in that agency.

Mr. Speaker, when we talk about Federal procurement reform as a subject, people's eyes tend to glaze over. It is a very arcane subject. It is not something that grabs people's attention. However when we talk about the $100 hammer, the $800 coffee urn, the $300 toilet seats, et cetera, that tends to focus the American taxpayer's attention very dramatically, and that is really what this bill is all about. We are trying to eliminate those stories that we have seen too often in the press and television talking about the waste and so forth.

Mr. Speaker, procurement reform is long overdue. The American taxpayers deserve and should demand a procurement system that does not add costs without adding value, does not impede the Government's access to state of the art technology and does not force businesses to alter standard procedures and raise prices when dealing with the Government.

Mr. Speaker, will passage of this bill eliminate all waste, fraud and abuse in Government procurement? Of course not. This is a human institution, and we are never going to eliminate waste, fraud and abuse entirely. But will it dramatically reduce the amount of waste, fraud and abuse that we see in the present system and result in enormous savings, enormous savings into the billions of dollars over the years that lie ahead? I think the answer to that is a resounding yes. Is it a perfect bill? No; it is not a perfect bill. Certainly, I think, all of us would have problems with some part or another of it. I would have preferred to have seen a provision dealing with recoupment, which is making us less competitive in terms of world markets for foreign military sales. I think there are some items the chairman alluded to with regard to small business access to Federal procurement that we would have liked to have seen included and, perhaps, can be addressed later. So, it is not a perfect bill. It is not one that we totally agree on.

Mr. Speaker, the point is that we all do agree on the essential building blocks which this bill contains, and I would just extend my congratulations again to the gentleman from Michigan [Mr. CONYERS] and to the gentleman from California [Mr. DELLUMS] who has been very cooperative throughout this entire process and has worked very hard to bring us to this day. Then there is the gentleman from South Carolina [Mr. SPENCE] who has been my counterpart on the Committee on Armed Services who has also played a very constructive role in this effort, and I think that we owe enormous thanks to the staff members, Julian Epstein, and Matt Fletcher, and particularly, particularly to Chuck Wheeler and Ellen Brown who have literally devoted I do not know how many hours; I mean its been a lifetime, I am sure that they would feel it has been; in bringing us to this conclusion and, hopefully, closure on this matter today.

So, Mr. Speaker, I support this legislation because it goes a long way toward making the Federal procurement system work better, work smarter and just plain work, and I urge Members to vote to adopt H.R. 2238, and I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 8 minutes to the chairman of the Committee on Armed Services, the gentleman from California [Mr. DELLUMS], and might I say that he and his stall have been indefatigable in their efforts to close all of the loops that have occurred in a reform acquisition bill that deals with agency-specific procurement activities and Governmentwide procurement activities; they make a very confusing mix, and I am honored to hear from my colleagues at this point.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS], and might I first begin by thanking the distinguished chairman of the Committee on Government Operations and the distinguished gentleman from Pennsylvania [Mr. CLINGER], the ranking minority member, for their generous and very kind remarks.

Mr. Speaker, I rise in support of H.R. 2238, the Federal Acquisition Improvement Act of 1994. This bill, which streamlines and reforms the costly Federal procurement system, is the result of an extensive bipartisan, and I underscore "bipartisan," joint committee effort between the Committee on Armed Services and the Committee on Government Operations. My partners in this effort, the gentleman from Michigan [Mr. CONYERS], the gentleman from South Carolina [Mr. SPENCE], the gentleman from Pennsylvania [Mr. CLINGER], the ranking minority members of the Committee on Armed Services and the Committee on Government Operations respectively, deserve tremendous credit, Mr. Speaker, for the work they have put into this bill and certainly for their perseverance in keeping us all on track.

Mr. Speaker, in drafting H.R. 2238, we had numerous discussions with the Department of Defense and other administration officials, as well as with representatives of large and small firms. I think it is fair to say that our efforts have met with support from these groups.

At any time, reducing the cost of doing business is a good thing. Indeed, we have talked about it for decades—dating all the way back to the Hoover Commission up to the Defense Management Review and the recent Section 800 Report. Now, declining budgets have made this a fiscal imperative.

Acquisition reform is particularly critical to the defense sector, especially since reductions in defense spending are causing the contraction of the defense industrial base. The cost of maintaining a dedicated defense industrial sector is an increasingly difficult challenge.

I do not believe this problem can be solved without meaningful acquisition reform. For the current defense industrial base, reform could be the right medicine for helping the defense industry streamline, diversify—and stay in business. And at the same time, other companies, long wary of the complexities of Government contracting, will be afforded new opportunities to participate in the Government market.

Acquisition reform will also help the Defense Department afford the technologies and manpower to carry it into the 21st century.

Indeed, as Defense Secretary Perry has testified, and I quote:

> Acquisition reform shares a common border with most of our national goals, saving the taxpayer money, reinventing government, strengthening our military and improving our economy.

Unfortunately, the Federal acquisition system we have inherited will not permit this. The complex and cumbersome maze of laws and regulations make it increasingly difficult for Federal personnel to exercise prudent discretion and good business judgment. Furthermore, because these burdens impact small business they limit the Government's buying power, limit the pool of potential suppliers by deterring thousands of firms from doing business with the Government, and jeopardize the financial health of those who are willing to contract with the United States.

This bill puts more responsibility into the system to do the right thing by the taxpayer. Contracting officials currently are straitjacketed by rules and regulations that have given us such things as $600 hammers. The existing rules and regulations have

worked against using common sense or good old Yankee ingenuity to solve the problem and get the best item for the taxpayer.

H.R. 2238 removes many of the legal barriers that have kept many companies out of the Government sector. This should lower the cost of a significant portion of the Pentagon's procurements while retaining current and necessary highly regulated acquisition procedures for those defense-unique items that will continue to require careful Government management and oversight.

H.R. 2238 represents the most comprehensive Governmentwide acquisition reform in over a decade. The principal objective behind this legislation is to strike a more equitable balance between the multitude of Government-unique policy requirements imposed on Federal procurement and the need to lower the Government's cost of doing business, and save the taxpayer money. H.R. 2238 will accomplish this objective by increasing our reliance on the use of commercial practices, goods and services; by creating a new category of high-volume, low-value Federal procurements that can be accomplished with streamlined rules and regulations; and by improving access to contracting opportunities for small business and minority-owned small businesses.

Facilitating the procurement of commercial products and services is perhaps the single most important issue to be addressed in acquisition reform. It was, therefore, a major focus of our efforts.

Commercial companies have found it difficult to serve a Government customer because of the complex web of Government procurement requirements—requirements for cost data and other financial information, Government unique terms and conditions, Government audit rights, and unlimited Government rights to technical and proprietary data. Such practices are uncommon, or nonexistent, in the commercial marketplace.

Congressional direction to acquire commercial products dates back to the enactment of the Competition in Contracting Act of 1984. The Congress, through various Defense authorization acts, has also provided authority specifically to the Department of Defense to increase the use of commercial products or nondevelopmental items where such items would meet the Department's needs. This authority, however, has never been widely used.

The Defense Department must move away from its reliance on buying defense-unique items, using defense-unique specification, and using defense-unique contract terms and conditions. It must move toward operating like a world class commercial customer where possible.

Title VII or H.R. 2238 is aimed at facilitating greater use of commercial items and services. This section is based on the premise that the forces of the commercial marketplace may be relied upon as much by the Federal Government as they are by all of us when we spend our money—to ensure that product quality meets our requirements and that the prices and terms are fair and reasonable.

The preference for commercial products and services should help smaller companies as well. Small firms in particular are hurt by the problems that flow from the Government's use of detailed design specifications, many of which are substantially outdated or call for components no longer available in the marketplace.

Title IV of H.R. 2238 would raise the threshold from $25,000 to $100,000 for agency use of simplified contracting procedures. H.R. 2238 would link this new simplified acquisition threshold to having an electronic notice capability in place, through a Federal acquisition computer network capability. Our intent is to push the Federal Government toward embracing the use of electronic commerce as a primary means of simplifying the procurement process and ensuring greater contracting opportunities for small businesses.

I must stress that I firmly believe these electronic commerce provisions in H.R. 2238 complement the ongoing efforts by the administration, which resulted from the President's October Executive Order to transform the acquisition process from a paper-based acquisition system to an electronic one.

Further, I am pleased that the administration has recognized the need to extend the Defense Department's Minority Contracting Goal Program—commonly called the section 1207 program—to all Government agencies; this is an idea whose time is long overdue. However, because of objections from the Small Business Committee we could not include this very necessary provision in the bill.

This is unfortunate because civilian agencies are struggling to meet their minority business contracting goals. The Small Business Act establishes a 5-percent Governmentwide contracting goal for small disadvantaged businesses. And separate, higher goals have been established by Congress for several Government agencies. But civilian agencies have pointed out that reaching these goals is difficult because they do not have any of the tools provided to the Department of Defense under the section 1207 program—the ability to set aside contracts or pay a price differential. I believe that if the civilian agencies had these same tools they could improve their contracting with small disadvantaged businesses.

In closing, I lay down a challenge to the administration. Congress is stepping up to the plate and doing its part to reform the acquisition system. But much more can be done—and most of that can be done by the administration. I challenge the administration, and particularly the Department of Defense, to tackle its own rules and regulations, and to push for cultural acceptance among its workers. Without this, what we do here today will be for nought.

Mr. Speaker, H.R. 2238 is a significant contribution to acquisition reform. I urge my colleagues to support H.R. 2238.

□ 1320

Mr. CLINGER. Mr. Speaker, I have no requests for time at the moment, and I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I especially want to commend the chairman of the Committee on Government Operations, Representative JOHN CONYERS, who has been tenacious in seeking reform in Government contracting. H.R. 2238 is a monument to his efforts. It has been a pleasure to work with him and the ranking Republican, Mr. CLINGER. And I also want to commend my friend, the chairman of the Armed Services Committee, Mr. DELLUMS of California, for his true leadership.

Section 2152 of H.R. 2238 will prevent Government contractors from billing the taxpayer for entertainment, gifts, and recreation for employee morale.

Our Subcommittee on Oversight and Investigations has compiled a long list of contractor abuses. One firm billed more than $2,100 for a hospitality suite and golf tournament at the infamous Tailhook Convention. Another billed more than $5,500 for retirement gifts for watches, pearls, and grandfather clocks. A third billed more than $19,600 for entertainment for photographers, a dance band, and even a reindeer suit for a Christmas party.

I believe contractors should provide for employee morale at their expense, not at the expense of the taxpayer.

I urge support for H.R. 2238.

Mr. DINGELL. Mr. Speaker, let me provide more details.

ENTERTAINMENT, GIFTS, AND RECREATION

For years, hearings of the Subcommittee on Oversight and Investigations have documented outrageous charges to the Federal Government for contractor entertainment, gifts, and recreation. Our earliest work on these issues started in 1985 with a hearing on General Dynamics Corp., then the No. 1 defense contractor. We learned that the senior vice president of General Dynamics had gone on a retreat with other company executives from around the country to an island off the coast of South Carolina to play golf. They not only stayed in luxury, but they provided for the boarding of the executive's dog, all at taxpayer's expense.

Since that time, we have held scores of additional hearings and documented abuses at other Federal agencies, including the Department of Energy [DOE] and the Environmental Protection Agency [EPA]. A 1992 hearing on an OMB review of 12 major civilian agencies further confirmed a pattern of abuse.

Let me cite just a few of the more recent abuses we have learned about:

In March 1992, the General Accounting Office [GAO] questioned $167,000 for contractor employee parties and picnics claimed in 1990 by CH2M Hill, one the EPA's largest contractors. The amounts claimed included $19,600 for entertainment, $300 for party invitations, $850 for photographers, $100 for a dance instructor, $3,200 for a dance band, and even a reindeer suit for a Christmas party. The GAO review also disclosed extensive charges for employee recreation and gifts, including among other things, softball, baseball, basketball, soccer, bowling, and volleyball teams and equipment, and fees for ski racing and golf.

Another review completed by GAO in 1993 of EPA contractors revealed billings by Arthur D. Little, Inc., of $5,550 for retirement gifts, including among other things, pearls costing $467, two watches costing $1,466, and four grandfather clocks costing $2,815 including delivery and installation. Another EPA contractor had charged $4,379 for sports-related expenses, including season tickets to baseball, football, and basketball teams and payments for golf tournaments.

An October 13, 1993, hearing on overhead abuses by McDonnell Douglas disclosed that in 1 year alone the company had billed the Government $115,000 for employee recreation clubs, including the Beer Can Collectors Club, the Rockhound Club, and the Saddle Club. The GAO's hearing testimony also indicated that the company had charged $14,500 for entertainment, including $2,184 for a hospitality suite at the Tailhook Convention and charges for a golf tournament at the Tailhook Convention.

I believe that the legislation before us should be implemented to halt these types of abuses. Contractors have relied repeatedly on the employee morale loophole in the current procurement regulations to justify such outlandish charges for entertainment, gifts, and recreation by employees and their families. I have no objection to contractors providing for the morale of their employees at no cost to the taxpayer. It is simply time for the taxpayer to stop footing the bill.

Most taxpayers would be astonished to learn that tax dollars that were earmarked for environmental protection were financing a swimming pool or retirement gifts for EPA contractor employees or that tax dollars for the defense of our Nation were being funneled to pay for the Beer Can Collectors Club at McDonnell Douglas. It is time for real reform.

The bill provides that such costs are unallowable unless the FAR Council can clearly show that some such costs, in the case of gifts and recreation, but not entertainment, should be allowable. The bill establishes the presumption against allowability. The Subcommittee on Oversight and Investigations will be overseeing how and if the Council uses this limited exception.

PENALTIES FOR IMPROPERLY CLAIMED COSTS UNDER CIVILIAN AGENCY CONTRACTS

We must not only tighten the regulations governing unallowable costs but we also must increase the incentives for complying with these regulations. This legislation does so by extending to civilian agencies important new authority which should help deter the charging of unallowable costs. The bill would allow civilian agencies for the first time to assess penalties against contractors for including unallowable costs in billings submitted to the Government. To date, this authority only has been available to the Department of Defense [DOD].

Hearings by our Subcommittee on Oversight and Investigations have documented a catch-me-if-you-can attitude by Federal agency contractors in their billing of various unallowable costs, such as alcoholic beverages and lobbying activities. Knowing that auditors cannot review every item, some contractors rename unallowables and scatter them throughout their accounting system taking the chance that they will not be discovered. When these costs slip through, the taxpayer foots the bill. This situation must be changed, and this legislation takes an important step in doing so. However, the legislation must be vigorously enforced to achieve its full potential.

This legislative proposal was a direct outcome of our subcommittee's work. In response to subcommittee hearings in 1992 highlighting contract management problems at the EPA, the Office of Management and Budget [OMB] launched an interagency SWAT team to examine and assess the contract administration and audit practices of 12 civilian agencies. The penalty authority proposal was one of the major recommendations of the SWAT team effort, and this proposal was presented to the subcommittee in testimony by OMB officials in December 1992.

Mr. Speaker, these provisions are similar to those adopted by the Committee on Government Operations in connection with H.R. 3425, the Department of Environmental Protection Act legislation (see H. Rept. 103-355, November 10, 1993).

I strongly urge support for this bill.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. SYNAR], a member of the Committee on Government Operations.

Mr. SYNAR. Mr. Speaker, I rise in support H.R. 2238, the Federal Acquisition and Improvement Act of 1994. Among other things, this legislation will reform the way the Federal Government currently reimburses its contractors for cost related to so-called employee morale and welfare. Investigations by my Subcommittee on Environment, Energy and Natural Resources in April 1992, as well as those of the House Committee on Energy and Commerce, demonstrated that Government contractors have routinely engaged in high questionable billing practices which have resulted in millions of Federal tax dollars going toward things like lavish Christmas parties, limousine travel, and expensive retirement gifts for contractors employees and their spouses, rather than toward cleanup of our Nation's Superfund sites. What is worse is that many of these expenses are currently deemed allowable under Federal procurement guidelines as indirect contractor costs for entertainment, gifts and recreation to maintain employee morale.

Let me highlight just a few of the things we found that Federal tax dollars helped pay for at three EPA Superfund contractors—Bechtel, ICF Inc., and Roy F. Weston: Rolex watches and Tiffany clocks as retirement gifts for Bechtel contractor employees and their spouses; Masters Golf Tournament tickets and private club dues for Bechtel executives; a $115,000 corporate Christmas party for ICF, Inc.; tickets to Baltimore Orioles games and to Disneyland for ICF employees; $10,000 for settlement of an EEOC claim against Roy F. Weston, Inc.; $650 for a fishing boat rental and $4,600 for ruby charms and sapphire tie tacs for Roy F. Weston employees.

Mr. Speaker, these are not unique expenses charged to the Government by just these three EPA contractors. Auditors from the U.S. General Accounting Office [GAO] and the Defense Contract Audit Agency [DCAA] identified even more incredible contractor expenditures that were reimbursed in part by taxpayer dollars. For example, GAO found that CH2M Hill asked the Government to help pay the costs of contractor employee parties, including entertainment—and in one instance a reindeer suit. DCAA found that a contractor, Viar and Co., included the cost of employees renting the company president's beach house as an indirect expense to be reimbursed by the taxpayers. And the Energy and Commerce Committee has found numerous examples of similar contractor abuses in other Federal agencies.

Mr. Speaker, contractors argue that reimbursement of expenses for contractor employee morale and welfare is an appropriate cost of doing business that is passed on to the customer—the Federal taxpayer. I strongly disagree. We are not talking about minor expenses

for plaques or certificates of appreciation, or even for a staff volleyball league. Here we are talking about big-league bucks. If contractors want to give their employees Rolex watches as retirement gifts, fine. But do not try to pass part of that cost off to the taxpayers. I think it is clear from the examples I have given today that Government contractors have abused the provisions in the current law, and we have to put a stop to it.

With this legislation, the House is sending a strong message to contractors that we will not tolerate millions of dollars of taxpayer money being spent on entertainment, gifts, and recreation for contractor employees. The bill eliminates altogether the loophole for contractor entertainment expenses, and prohibits reimbursement of contractor costs for gifts and recreation unless the Federal Acquisition Regulatory Council promulgates regulations governing such expenses within 6 months. Frankly, I think the evidence from our hearings show that all expenses for gifts and recreation should be completely unallowable. The American taxpayers should not pay for one penny of a contractor employee's Rolex watch or sapphire tie tac. I hope the FAR council remembers these examples and prohibits expenses for gifts and recreation in the regulations it is expected to issue.

Finally, I want to note that the legislation also strengthens the current law by extending to non-Defense agencies new authority to assess penalties against contractors that include unallowable costs in their billings to the Government. The Defense Department has had this authority for some time, and it has worked as a strong incentive for companies to establish aggressive internal screening procedures to catch any errors. This provision is especially important because civilian agencies increasingly rely on contractor employee to accomplish their mission. Of course, strong enforcement and oversight efforts by the agencies and Congress must continue to ensure that taxpayers are not inadvertently paying for expressly unallowable costs.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I wish to thank the ranking members and chairmen of both the Committee on Government Operations and the Committee on Armed Services for their efforts in developing Federal procurement reform legislation. It is exciting to get away from the bureaucracy as usual and start looking at how we can do a better job with the tremendous amount of taxpayer dollars we use and the way we purchase goods.

The Federal Government spends $200 billion on procurement every year—$800 for every American. With 142,000 Federal employees to implement over 4,500 pages of Federal procurement regulations and agency supplements, the system has long needed an overhaul and this legislation is a step in the right direction.

Mr. Speaker, I rise in support of H.R. 2238, the Federal Acquisition Improvement Act. As cochairman of the Bipartisan Freshman Procurement Task Force with the gentlewoman from New York [Mrs. MALONEY], we and the freshmen class have worked hard in this area to expand the reinvention of the way the Government buys goods and services. We heard many concerns from suppliers of goods and services about the tremendous amount of bureaucracy they have to endure in order to offer a bid. This legislation will begin to allow more goods to be purchased off-the-shelf without exceptional requirements. It will move the United States in the right direction.

This bill will encourage commercial product acquisition, enhance competition and reduce paperwork, and simplify thousands of small purchases. Federal managers will be able to make purchases of up to $100,000 without having to review tedious regulations.

While this bill is not perfect legislation, I think it moves this Government and this Congress in the direction of letting the American people know that we are making a decision to start reforming Government and making it more efficient.

So, Mr. Speaker, I support the bill, and urge my colleagues, along with the members of the freshman class, Republicans and Democrats, to support this bill.

□ 1330

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I want to thank the gentleman from Michigan, Chairman CONYERS, and the gentleman from Pennsylvania [Mr. CLINGER] for their excellent work on this bill, the Federal Acquisition Improvement Act, and the gentleman from California [Mr. DELLUMS] for his vital contribution.

This act contains many reforms and innovations that clear the decks of excess bureaucratic baggage that makes the Government pay more for what it buys. I know Chairman CONYERS is also interested in the other half of this problem—the half that deals with services.

This act deals with goods. We buy more services than goods. The next step must be to reform the purchase of services. I have three bills that need the same attention we are now giving this bill.

The GAO has found that agencies are actually paying more to contract out services in some instances than to do the work in-house. I have a bill that would require agencies to do a cost comparison before contracting out services.

I have a bill that would have the OMB determine just how many taxpayer-paid contracting employees we have. There is a shadow government out there that we know little about.

Finally, I have a bill prohibiting agencies from replacing bought-out Federal employees with contract employees.

I support this bill, H.R. 2238, and look forward to moving on to the services part of this problem.

Mr. BILBRAY. Mr. Chairman, I rise in strong support of H.R. 2238, the Federal Acquisition Improvement Act.

First, I would like to commend the work of Chairman DELLUMS and Chairman CONYERS. Despite the responsibilities that their two committees have had over the last year and a half, they have been able to give this legislation the priority and consideration it deserves.

Second, I want to commend them for the sensitivity they have shown to the role of the small business community and the effect that this legislation would have on them.

As chairman of the Subcommittee on Procurement, Taxation, and Tourism, of the Small Business Committee, my staff and myself have also spent the better part of the last year and half analyzing and discussing the impact this legislation would have on the small business community. Through countless negotiation sessions, and three hearings which my subcommittee has held, it has become clear to me that the product that we see before us today will not only simplify our cumbersome and inefficient procurement system but more importantly it will provide new and more dynamic business opportunities for small businesses.

There have been a number of misconceptions surrounding the impact this bill will have on small businesses. Let me state, once and for all, this bill is good for small business.

This legislation will ensure that small business gets access to contract opportunities—faster and more efficiently through the creation of an electronic commerce network. Second, it will increase the number of contracts available to small business by raising the small business reservation to $100,000. In addition, it will spread the benefits of programs such as the 1207, small business disadvantage program throughout the Government.

Finally, it will allow the Government to enter the commercial marketplace, buy goods directly off the shelf, thereby removing the cumbersome requirements that have kept small businesses from participating in the Government procurement system.

I want to take a moment to thank the staffs of both Armed Services and Government Operations Committees, Cathy Garman, Robert Rangel, Chuck Wheeler, and Ellen Brown for cooperating so fully and openly with my subcommittee staff.

Again, I urge my colleagues to support this legislation and look forward to seeing this bill signed into law this year.

Mr. SPENCE. Mr. Speaker, although this bill is not everything that it could and should be, it nevertheless is an initial step in the right direction of streamlining the laborious Federal

procurement system. This bill will help to reduce the costs associated with doing business with the Government while maintaining standards of oversight necessary to protect the taxpayer's interests.

Putting this bill together has been an arduous process that has often pitted committee versus committee and Republicans versus Democrats. But, despite the many worthwhile proposals contained in this bill, I am deeply disappointed that it has failed to address the important issue of R&D recoupment for foreign military sales, and I am disturbed by the process associated with the handling of this issue since the Armed Services Committee marked-up its acquisition reform bill back in April.

Earlier this year, the administration proposed that the decades-old recoupment provision be stricken from the law. The draft Dellums-Spence Federal Acquisition Improvement Act of 1994, the basis for the House Armed Services Committee markup, struck the recoupment provision from the law. And, H.R. 4328, Mr. CONYERS' and Mr. CLINGER's acquisition reform bill likewise struck the recoupment provision from the law. Yet, the provision is not included in the bill before the House this afternoon.

Addressing the recoupment issue is important to the Department of Defense and to the U.S. defense industrial base. Striking the existing recoupment statute would do nothing more than slightly increase the competitiveness of, and level the playing field for, the U.S. defense industry. We ought to be particularly sensitive to the defense industrial base since it continues to erode after 10 consecutive years of defense cuts and the prospect of even more severe cutbacks under President Clinton.

According to the Bureau of Labor Statistics, the Clinton cuts will result in an average monthly loss in private sector defense-related jobs of 20,000 for the foreseeable future. U.S. aerospace companies have not employed so few workers since Jimmy Carter was President.

Contrary to the arguments one may hear in opposition to striking the recoupment law: It would in no way undermine any arms control efforts or agreements; it would in no way encourage arms sales or the proliferation of conventional weapons; and it would in no way alter the existing and rigorous congressional oversight policies governing foreign military sales.

Mr. Speaker, over the past 2 weeks I have been faced with the unenviable choice of ignoring an important issue and allowing this bill to proceed on the suspension calendar, or openly opposing the legislation and possibly derailing it under the two-thirds rule.

While recoupment is an issue we should not hide from due to its importance to a declining defense industrial base, this bill, as a whole, is also important to industry. Mr. Speaker, under any circumstances my enthusiasm for this bill is not what it once was. Nonetheless, I do not believe that throwing this bill off-track is in the interest of industry and therefore, I do not plan to oppose it.

Mr. Speaker, in closing I want to extend my thanks to Mr. CONYERS and Mr. CLINGER and to their staff for their efforts on this issue. We would not be here without their cooperation.

Closer to home, I also want to thank Chairman DELLUMS and, in particular, Robert Rangel and Cathy Garman of the HASC staff for their months of hard work. Their dedication and effort on this bill has truly been above and beyond the call of duty.

Mr. WELDON. Mr. Speaker, I rise in support of H.R. 2238, the Federal Acquisition Improvement Act. This far-reaching reform of Federal procurement laws is long overdue and instrumental to cost-cutting efforts.

As we work to reduce Federal spending, neither the Government nor industry can afford the nonvalue added requirements which burden the Federal procurement system. These rules, regulations, and requirements unnecessarily add 20 to 50 percent to the cost of Federal purchases. Given the $200 billion that the Government spends annually, the elimination of these unnecessary costs is significant.

Not only do we lose money by perpetuating the current system, but we limit Federal buying power and prevent many firms from doing business with the Government. Too often, companies which do sell commercially cannot afford to do business with the Government given all the unique paperwork and reporting requirements, and those who do a great deal of business with the Government miss commercial opportunities due to the many Government accounting and auditing requirements placed on Government contractors doing non-Government work.

As a member of the Armed Services Committee, I have taken a special interest in acquisition reform. The defense budget has been cut each year since 1985, and our ability to meet our security needs is becoming increasingly difficult. If we want the military to do more with less, we must give them more flexibility in purchasing. It is time that we preserved more funds for systems acquisition, training, and personnel and spend less on the bureaucracy required to administer the complex web of procurement laws.

We have set increasing number of laws to prevent waste, fraud, and abuse in our systems and to allegedly ensure the delivery of quality products. While these efforts were well-intended, they have not prevented all waste nor have they assured quality in every case. Added on incrementally over the years, they have resulted in a myriad of regulations and requirements, often working at cross purposes from one another. It is time to streamline the system, and set up a more orderly process by which to monitor Government programs and contractors.

Last year, I offered amendments to the Defense authorization which form the basis for the measure before us today. My amendments would have required the Department of Defense to buy off-the-shelf commercial and services whenever possible, and increased the simplified acquisition threshold to $100,000, allowing the Department to waive many burdensome requirements in law for purchases in law under that amount.

In deference to the work progressing through many committees on Government-wide acquisition reform, the Armed Services Committee deferred on my amendments last year. The product before us today is the compilation of those committee efforts. I urge my colleagues to support this critical, cost-saving legislation and am hopeful that House and Senate leaders will ensure that it becomes law this year.

Mrs. MALONEY. Mr. Speaker, the Federal Government spends over $200 billion on procurement every year—that's $800 for every American spent on goods and services. There are few areas of the Federal Government that are more important for controlling spending and better managing our limited resources.

As a cochair of the Bipartisan Freshman Task Force on Procurement Reform, I am enthusiastic about H.R. 2238, the Federal Acquisition Improvement Act of 1994, and I strongly urge its passage.

This legislation will simplify and streamline the Federal procurement process while ensuring its fairness, accountability, and integrity. It will reduce paperwork, especially for contracts under $100,000, and will help the Federal Government to buy commercial products at the fairest prices.

It also incorporates several of the Vice President's National Performance Review recommendations, such as providing for multiyear contracts, promoting excellence in vendor performance, and allowing State and local governments to use Federal supply services.

This legislation will help the Government save significant sums of money, and I strongly urge passage of this major procurement reform legislation.

Mrs. LLOYD. Mr. Speaker, today, the House of Representatives can be proud of the work it has done on H.R. 2238, the Federal Acquisition Improvement Act of 1994. This bipartisan effort gives a much needed common sense approach to the way our Government procures its goods and services. Benefactors of these new changes are the Federal agencies, private industry, and ultimately the American people.

Of particular significance is the effect the act of 1994 will have on the Department of Defense and our armed services. During this time of defense cutbacks and a diminishing defense industrial base, H.R. 2238 provides the armed services a more reasonable, more expeditious, and less costly process for acquiring equipment and supplies to carry out their mission. We have revised the burdensome restrictions that prevented DOD from being the smart consumer we expect ourselves and our fellow citizens to be. Now DOD can shop more responsibly with taxpayer money.

The American people expect their Congress to make laws that are sensible, fair, and cost-effective. I believe the House of Representatives has met those standards by passing the Federal Acquisition improvement Act of 1994.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 2238, as amended.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid upon the table.

The title of the bill was amended so as to read: "A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes."

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2238, the bill just passed.

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

There was no objection.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1587) to revise and streamline the acquisition laws of the Federal Government, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Streamlining Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Establishment or maintenance of alternative sources of supply.
Sec. 1003. Clarification of approval authority for use of procedures other than full and open competition.
Sec. 1004. Task order contracts for advisory and assistance services.
Sec. 1005. Acquisition of expert services.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Award of costs and fees in agency settlement of protests.
Sec. 1017. Two-phase selection procedures.

SUBPART C—KINDS OF CONTRACTS

Sec. 1021. Secretarial determination regarding use of cost type or incentive contract.
Sec. 1022. Technical and conforming amendments.

SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION

Sec. 1031. Repeal of requirement for annual report by advocates for competition.

PART II—CIVILIAN AGENCY ACQUISITIONS

SUBPART A—COMPETITION REQUIREMENTS

Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Establishment or maintenance of alternative sources of supply.
Sec. 1053. Clarification of approval authority for use of procedures other than full and open competition.
Sec. 1054. Task order contracts for advisory and assistance services.
Sec. 1055. Acquisition of expert services.
Sec. 1056. Continued occupancy of leased space.

SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD

Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Award of costs and fees in agency settlement of protests.
Sec. 1067. Two-phase selection procedures.

SUBPART C—KINDS OF CONTRACTS

Sec. 1071. Agency head determination regarding use of cost type or incentive contract.
Sec. 1072. Multiyear contracting authority.
Sec. 1073. Severable services contracts crossing fiscal years.
Sec. 1074. Economy Act purchases.

PART III—ACQUISITIONS GENERALLY

Sec. 1091. Policy regarding consideration of contractor past performance.
Sec. 1092. Repeal of requirement for annual report on competition.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Limitation on authority to require a submission not otherwise required.
Sec. 1204. Additional special rules for commercial items.
Sec. 1205. Right of United States to examine contractor records.
Sec. 1206. Required regulations.
Sec. 1207. Consistency of time references.
Sec. 1208. Exception for transfers between divisions, subsidiaries, and affiliates.
Sec. 1209. Repeal of superseded provision.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.

Subtitle C—Research and Development

Sec. 1301. Research projects.
Sec. 1302. Elimination of inflexible terminology regarding coordination and communication of defense research activities.

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.

PART II—PROTESTS IN THE FEDERAL COURTS

Sec. 1421. Nonexclusivity of remedies.
Sec. 1422. Jurisdiction of the United States Court of Federal Claims.

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Jurisdiction of district courts.
Sec. 1438. Matters to be covered in regulations.
Sec. 1439. Definitions.

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

Sec. 1501. Definitions.
Sec. 1502. Delegation of procurement functions.
Sec. 1503. Determinations and decisions.
Sec. 1504. Undefinitized contractual actions: restrictions.
Sec. 1505. Production special tooling and production special test equipment: contract terms and conditions.
Sec. 1506. Regulations for bids.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Cooperative purchasing.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2001. Contract financing.
Sec. 2002. Contracts: vouchering procedures.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2051. Contract financing.

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2101. Allowable contract costs.
Sec. 2102. Contract profit controls during emergency periods.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2151. Allowable contract costs.

PART III—ACQUISITIONS GENERALLY

Sec. 2191. Travel expenses of government contractors.
Sec. 2192. Unallowability of entertainment costs under covered contracts.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2201. Consolidation and revision of authority to examine records of contractors.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2251. Authority to examine records of contractors.

Subtitle D—Cost Accounting Standards

Sec. 2301. Exceptions to coverage.
Sec. 2302. Repeal of obsolete deadline regarding procedural regulations for the Cost Accounting Standards Board.

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2401. Procurement of critical aircraft and ship spare parts; quality control.

Sec. 2402. Contractor guarantees regarding weapon systems.

PART II—ACQUISITIONS GENERALLY

Sec. 2451. Section 3737 of the Revised Statutes: expansion of authority to prohibit setoffs against assignees; reorganization of section; revision of obsolete provisions.
Sec. 2452. Repeal of requirement for deposit of contracts with GAO.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2501. Certification of contract claims.
Sec. 2502. Shipbuilding claims.

PART II—ACQUISITIONS GENERALLY

Sec. 2551. Claims jurisdiction of United States district courts and the United States Court of Federal Claims.
Sec. 2552. Contract Disputes Act improvements.
Sec. 2553. Extension of alternative dispute resolution authority.
Sec. 2554. Expedited resolution of contract administration complaints.
Sec. 2555. Authority for District Courts to obtain advisory opinions from boards of contract appeals in certain cases.

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

Sec. 3001. Requirement for independent cost estimates and manpower estimates before development or production.
Sec. 3002. Enhanced program stability.
Sec. 3003. Repeal of requirement to designate certain major defense acquisition programs as defense enterprise programs.
Sec. 3004. Repeal of requirement for competitive prototyping in major programs.
Sec. 3005. Repeal of requirement for competitive alternative sources in major programs.

Subtitle B—Testing Statutes

Sec. 3011. Director of Operational Test and Evaluation to report directly to Secretary of Defense.
Sec. 3012. Responsibility of Director of Operational Test and Evaluation for live fire testing.
Sec. 3013. Requirement for unclassified version of annual report on operational test and evaluation.

Subtitle C—Service Specific Laws

Sec. 3021. Gratuitous services of officers of certain reserve components.
Sec. 3022. Authority to rent samples, drawings, and other information to others.
Sec. 3023. Civil Reserve Air Fleet.
Sec. 3024. Exchange of personnel.
Sec. 3025. Scientific investigation and research for the Navy.
Sec. 3026. Construction of combatant and escort vessels and assignment of vessel projects.
Sec. 3027. Repeal of requirement for construction of vessels on Pacific coast.
Sec. 3028. Authority to transfer by gift a vessel stricken from Naval Vessel Register.
Sec. 3029. Naval salvage facilities.

Subtitle D—Department of Defense Commercial and Industrial Activities

Sec. 3051. Accounting requirement for contracted advisory and assistance services.

Subtitle E—Fuel- and Energy-Related Laws

Sec. 3061. Liquid fuels and natural gas: contracts for storage, handling, or distribution.

Subtitle F—Fiscal Statutes

Sec. 3071. Disbursement of funds of military department to cover obligations of another agency of Department of Defense.

Subtitle G—Miscellaneous

Sec. 3081. Obligation of funds: limitation.
Sec. 3082. Repeal of requirements regarding product evaluation activities.
Sec. 3083. Codification and revision of limitation on lease of vessels, aircraft, and vehicles.
Sec. 3084. Soft drink supplies for exchange stores.
Sec. 3085. Repeal of preference for recycled toner cartridges.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

Sec. 4001. Simplified acquisition threshold.

PART II—SIMPLIFICATION OF PROCEDURES

Sec. 4011. Simplified acquisition procedures.
Sec. 4012. Small business reservation.
Sec. 4013. Fast payment under simplified acquisition procedures.
Sec. 4014. Procurement notice.
Sec. 4015. Electronic commerce for Federal Government procurements.

PART III—APPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

Sec. 4021. Future enacted procurement laws.
Sec. 4022. Armed services acquisitions.
Sec. 4023. Civilian agency acquisitions.
Sec. 4024. Acquisitions generally.

PART IV—CONFORMING AMENDMENTS

Sec. 4071. Armed services acquisitions.
Sec. 4072. Civilian agency acquisitions.
Sec. 4073. Office of Federal Procurement Policy Act.
Sec. 4074. Small Business Act.

PART V—REVISION OF REGULATIONS

Sec. 4081. Revision required.

Subtitle B—Socioeconomic and Small Business Laws

Sec. 4101. Acquisitions generally.
Sec. 4102. Acquisitions from small businesses.
Sec. 4103. Contracting program for certain small business concerns.
Sec. 4104. Procurement goals for small business concerns owned by women.
Sec. 4105. Development of definitions regarding certain small business concerns.

Subtitle C—Miscellaneous Acquisition Laws

Sec. 4151. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.
Sec. 4152. Restriction on use of noncompetitive procedures for procurement from a particular source.

TITLE V—ACQUISITION MANAGEMENT

Subtitle A—Armed Services Acquisitions

Sec. 5001. Performance based management.
Sec. 5002. Results oriented acquisition program cycle.
Sec. 5003. Defense acquisition pilot program designations.

Subtitle B—Civilian Agency Acquisitions

Sec. 5051. Performance based management.
Sec. 5052. Results-oriented acquisition process.

Subtitle C—Miscellaneous

Sec. 5091. Contractor exceptional performance awards.
Sec. 5092. Department of Defense acquisition of intellectual property rights.

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics Provisions

Sec. 6001. Amendments to Office of Federal Procurement Policy Act.
Sec. 6002. Amendments to title 18, United States Code.
Sec. 6003. Repeal of superseded and obsolete laws.
Sec. 6004. Implementation.

Subtitle B—Additional Amendments

Sec. 6051. Contracting functions performed by Federal personnel.
Sec. 6052. Repeal of executed requirement for study and report.
Sec. 6053. Interests of Members of Congress.
Sec. 6054. Waiting period for significant changes proposed for acquisition regulations.

Subtitle C—Whistleblower Protection

Sec. 6101. Armed services procurements.
Sec. 6102. Governmentwide whistleblower protections for contractor employees.

TITLE VII—DEFENSE TRADE AND COOPERATION

Sec. 7001. Purchases of foreign goods.
Sec. 7002. International cooperative agreements.
Sec. 7003. Acquisition, cross-servicing agreements, and standardization.

TITLE VIII—COMMERCIAL ITEMS

Sec. 8001. Definitions.
Sec. 8002. Preference for acquisition of commercial items and nondevelopmental items.
Sec. 8003. Acquisition of commercial items.
Sec. 8004. Class waiver of applicability of certain laws.
Sec. 8005. Inapplicability of certain provisions of law.
Sec. 8006. Flexible deadlines for submission of offers of commercial items.
Sec. 8007. Advocates for acquisition of commercial and nondevelopmental items.
Sec. 8008. Provisions not affected.
Sec. 8009. Comptroller General review of Federal Government use of market research.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 9001. Comptroller General review of the provision of legal advice for inspectors general.
Sec. 9002. Cost savings for official travel.
Sec. 9003. Prompt resolution of audit recommendations.
Sec. 9004. Uniform suspension and debarment.

TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

Sec. 10001. Effective dates.
Sec. 10002. Implementing regulations.
Sec. 10003. Evaluation by the Comptroller General.
Sec. 10004. Data collection through the Federal procurement data system.

TITLE IX—WAIVER OF THE APPLICATION OF THE PREVAILING WAGE-SETTING REQUIREMENTS TO VOLUNTEERS

Sec. 11001. Short title.
Sec. 11002. Purpose.
Sec. 11003. Waiver.
Sec. 11004. Report.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

Section 2304(b) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

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

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1004. TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new section:

"§ 2304a. Task order contracts for advisory and assistance services

"(a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, the head of an agency may enter into a contract for advisory and assistance services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of task orders during the specified period of the contract.

"(2) Except as provided in subsection (h), the head of an agency may enter into a contract described in paragraph (1) only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTRACT PROCEDURES.—(1) The head of an agency may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract.

"(4)(A) The head of an agency may, on the basis of one solicitation, award separate contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

"(B) If, in the case of a contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed 3 years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(i) provide for a multiple award authorized under subparagraph (A); and

"(ii) include a statement that the head of the agency may also elect to award only one contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(C) Subparagraph (B) does not apply in the case of a solicitation for which the head of an agency determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDER PROCEDURES.—(1) The following actions are not required for a task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded pursuant to subsection (c)(4), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task order in excess of $2,500 that is to be issued under any of the contracts unless—

"(i) the agency's need for the services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) only one such contractor is capable of providing the services required at the level of quality required because the services ordered are unique or so highly specialized;

"(iii) the task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued on a competitive basis; or

"(iv) the order must be placed with a particular contractor in order to satisfy a minimum guarantee.

"(B) When a task order is issued in accordance with subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance or proposed issuance of a task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(4)(A) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (c), a contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding 6 months if the agency head determines that—

"(i) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(ii) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(B) A contract may be extended under the authority of subparagraph (A) only once and only in accordance with the limitations and requirements of this subsection.

"(f) TASK ORDER OMBUDSMAN.—Each head of an agency who awards multiple contracts pursuant to subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task orders when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(g) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(h) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit the authority of the head of an agency to enter into single or multiple task order contracts, or single or multiple delivery order contracts, for property or services (other than advisory and assistance services) under other provisions of this chapter or under any other provision of law.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2304 the following new item:

"2304a. Task order contracts for advisory and assistance services.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2304 of title 10, United States Code, is amended by striking out subsection (j).

(c) CONFORMING AMENDMENT FOR PROFESSIONAL AND TECHNICAL SERVICES.—Section 2331 of title 10, United States Code, is amended by striking out subsection (c).

SEC. 1005. ACQUISITION OF EXPERT SERVICES.

Section 2304(c)(3) of title 10, United States Code, is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i), by striking out "nonprice-related factors)" and inserting in lieu thereof "nonprice-related factors and subfactors)"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) Nothing in this paragraph prohibits an agency from—

"(i) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(ii) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

(a) OPTIONS FOR ADDITIONAL PURCHASES.—Subsection (a) of section 2305 of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2301(a) of such title is amended—

(1) by striking out paragraph (7);

(2) by inserting "and" at the end of paragraph (5); and

(3) by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period.

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Section 2305(b)(3) of title 10, United States Code, is amended by adding at the end the following: "As soon as practicable after the date of contract award, the head of the agency shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Section 2305(b)(4)(B) of title 10, United States Code, is amended in the second sentence by striking out "source and shall promptly notify" and inserting in lieu thereof "source. As soon as practicable after the date of contract award, the head of the agency shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by the head of an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the agency shall debrief the offeror promptly after receipt of the request by the agency.

"(B) The debriefing shall include, at a minimum—

"(i) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(ii) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(iii) the overall ranking of all offers;

"(iv) a summary of the rationale for the award;

"(v) in the case of a proposal for a commercial item other than a commercial component, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(vi) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, including information relating to—

"(i) trade secrets;

"(ii) privileged or confidential manufacturing processes and techniques; and

"(iii) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency shall make available to all offerors—

"(i) the information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(ii) the same information that would have been provided to the original offerors.

"(F) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following:

"(e)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under the section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency may take—

"(1) any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

SEC. 1017. TWO-PHASE SELECTION PROCEDURES.

(a) PROCEDURES AUTHORIZED.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

"§ 2305a. Two-phase selection procedures

"(a) PROCEDURES AUTHORIZED.—The head of an agency may use two-phase selection procedures for entering into a contract for the acquisition of property or services (other than a construction contract) when the head of the agency determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The head of the agency solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The head of the agency evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the head of the agency does not consider cost-related or price-related evaluation factors.

"(3) The head of the agency selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost or price information.

"(4) The head of the agency awards the contract in accordance with section 2305(b)(4) of this title.

"(c) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to subsection (b)(1) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (b)(3).

"(d) RESOURCE COMPARISON CRITERION REQUIRED.—In using two-phase selection procedures for entering into a contract, the head of the agency shall establish a resource criterion or a financial criterion applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2305 the following:

"2305a. Two-phase selection procedures.".

Subpart C—Kinds of Contracts

SEC. 1021. SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

SEC. 1022. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF UNNECESSARY CROSS REFERENCE.—Subsection (f) of section 2306 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Such section is amended by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(c) NEUTERIZATION OF REFERENCE.—Subsection (e)(1) of such section, as redesignated by subsection (b), is amended in the matter above clause (i) by striking out "whenever he finds" and inserting in lieu thereof "whenever the head of the agency finds".

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

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

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(4) in paragraph (4), as redesignated by paragraph (2), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1054. TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES

"SEC. 303H. (a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, the head of an executive agency may enter into a contract for advisory and assistance services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of task orders during the specified period of the contract.

"(2) Except as provided in subsection (h), the agency head may enter into a contract described in paragraph (1) only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTRACT PROCEDURES.—(1) An agency head may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 303 applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of the services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services to be procured under the contract.

"(4)(A) An agency head may, on the basis of one solicitation, award separate contracts under this section for the same or similar services to two or more sources if the solicitation states that the agency head has the option to do so.

"(B) If, in the case of a contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed 3 years and the contract amount is estimated to exceed

$10,000,000 (including all options), the solicitation shall—

"(i) provide for a multiple award authorized under subparagraph (A); and

"(ii) include a statement that the agency head may also elect to award only one contract if the agency head determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(C) Subparagraph (B) does not apply in the case of a solicitation for which the agency head determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDER PROCEDURES.—(1) The following actions are not required for a task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 303(f)) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded pursuant to subsection (c)(4), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task order in excess of $2,500 that is to be issued under any of the contracts unless—

"(i) the agency's need for the services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) only one such contractor is capable of providing the services required at the level of quality required because the services ordered are unique or highly specialized;

"(iii) the task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued on a competitive basis; or

"(iv) the order must be placed with a particular contractor in order to satisfy a minimum guarantee.

"(B) When a task order is issued in accordance with subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance or proposed issuance of a task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 303 and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(4)(A) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (c), a contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding 6 months if the agency head determines that—

"(i) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(ii) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(B) A contract may be extended under the authority of subparagraph (A) only once and only in accordance with the limitations and requirements of this subsection.

"(f) TASK ORDER OMBUDSMAN.—Each agency head who awards multiple contracts pursuant to subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task orders when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(g) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the agency head entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(h) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit the authority of the head of an agency to enter into single or multiple task order contracts, or single or multiple delivery order contracts, for goods or services (other than advisory and assistance services) under other provisions of this title or under any other provision of law.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31, United States Code.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 303G the following new item:

"Sec. 303H. Task order contracts for advisory and assistance services.".

SEC. 1055. ACQUISITION OF EXPERT SERVICES.

(a) EXCEPTION TO REQUIREMENT FOR USE OF COMPETITIVE PROCEDURES.—Section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

(b) PROCUREMENT NOTICE.—

(1) AMENDMENT OF OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(2) AMENDMENT OF SMALL BUSINESS ACT.—Section 8(g) of the Small Business Act (15 U.S.C. 637(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including preparation for any foreseeable litigation or dispute) that involves or could involve the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(c) REPEAL OF AMENDMENTS TO UNCODIFIED TITLE.—The following provisions of law are repealed:

(1) Section 532 of Public Law 101-509 (104 Stat. 1470) and the provision of law set out in quotes in that section.

(2) Section 529 of Public Law 102-393 (106 Stat. 1761) and the matters inserted and added by that section.

SEC. 1056. CONTINUED OCCUPANCY OF LEASED SPACE.

Section 303(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(d)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) For the purposes of applying subsection (c)(1) in the case of a follow-on lease to be entered into for the purpose of providing for continued occupancy of particular space in leased real property by a Federal agency, space may be treated as being available only from the lessor of such space and may be acquired through the use of procedures other than competitive procedures (without the justification otherwise required by subsection (f)) if a written determination is made by the contracting officer that—

"(i) the occupying agency has a continuing need for the space;

"(ii) the space meets the needs of the agency; and

"(iii) the lessor is willing to continue to provide the space at a fair market price determined by the contracting officer on the basis of a market survey or an appraisal conducted in accordance with generally accepted real property appraisal standards.

"(B) The authority under subparagraph (A) to use procedures other than competitive procedures to enter into a follow-on lease may be exercised not more than once to provide for continued occupancy of particular

space in real property by a particular Federal agency. The period of such follow-on lease may not exceed 5 years.

"(C) Nothing in this paragraph may be construed to prohibit the use of procedures other than competitive procedures to enter into a follow-on lease of real property for continued occupancy of particular space in real property by a Federal agency when an exception set forth in subsection (c) applies and the use of such procedures is justified and approved in accordance with subsection (f).".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "and significant subfactors" after "all significant factors"; and

(B) by striking out "(including price)" and inserting "(including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors)";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

(b) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An agency head shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.";

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2); and

(C) in paragraph (2), as redesignated by subparagraph (B), by inserting "cost or" before "price" in the first sentence.

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act; and

(B) contracts awarded pursuant to those solicitations.

(2) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the end of the period referred to in paragraph (1). The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An agency head, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the agency head has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following: "As soon as practicable after the date of contract award, the agency head shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)), as redesignated by section 1061(b)(3)(B), is amended in the second sentence by striking out "source and shall promptly notify" and inserting in lieu thereof "source. As soon as practicable after the date of contract award, the agency head shall, in accordance with procedures prescribed in the Federal Acquisition Regulation, notify".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by the head of an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the executive agency shall debrief the offeror promptly after receipt of the request by the agency.

"(2) The debriefing shall include, at a minimum—

"(A) the executive agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(B) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(C) the overall ranking of all offers;

"(D) a summary of the rationale for the award;

"(E) in the case of a proposal for a commercial item other than a commercial component, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(F) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code, including information relating to—

"(A) trade secrets;

"(B) privileged or confidential manufacturing processes and techniques; and

"(C) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the executive agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency head shall make available to all offerors—

"(A) the information provided in debriefings under this subsection regarding the offer of the contractor awarded the contract; and

"(B) the same information that would have been provided to the original offerors.

"(6) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1064(1), is further amended by adding at the end the following:

"(h)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) If, in connection with a protest, an agency head determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the agency head may take—

"(1) any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

SEC. 1067. TWO-PHASE SELECTION PROCEDURES.

(a) PROCEDURES AUTHORIZED.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1054, is further amended by inserting after section 303H the following new section:

"TWO-PHASE SELECTION PROCEDURES

"SEC. 303I. (a) PROCEDURES AUTHORIZED.—The head of an executive agency may use two-phase selection procedures for entering into a contract for the acquisition of property or services (other than a construction contract) when the agency head determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The agency head solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The agency head evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the agency head does not consider cost-related or price-related evaluation factors.

"(3) The agency head selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost or price information.

"(4) The agency head awards the contract in accordance with section 303B(d).

"(c) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to subsection (b)(1) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (b)(3).

"(d) RESOURCE COMPARISON CRITERION REQUIRED.—In using two-phase selection procedures for entering into a contract, the agency head shall establish a resource criterion or a financial criterion applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1054, is further amended by inserting after the item relating to section 303H the following new item:

"Sec. 303I. Two-phase selection procedures.".

Subpart C—Kinds of Contracts

SEC. 1071. AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1067, is further amended by inserting after section 303I the following new section:

"MULTIYEAR CONTRACTS

"SEC. 303J. (a) AUTHORITY.—The head of an executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract; and

"(2) the agency head determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging effective competition or promoting economy in administration, performance, and operation of the agency's programs.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1067, is further amended by inserting after the item relating to section 303I the following new item:

"Sec. 303J. Multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1072, is further amended by inserting after section 303J the following new section:

"SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS

"SEC. 303K. (a) AUTHORITY.—The head of an executive agency may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1072, is further amended by inserting after the item relating to section 303J the following new item:

"Sec. 303K. Severable services contracts for periods crossing fiscal years.".

SEC. 1074. ECONOMY ACT PURCHASES.

(a) REGULATIONS REQUIRED.—Not later than six months after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations governing the exercise of the authority under section 1535 of title 31, United States Code, for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

(b) CONTENT OF REGULATIONS.—The regulations prescribed pursuant to subsection (a) shall—

(1) require that each purchase described in subsection (a) be approved in advance by a contracting officer of the ordering agency with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

(2) provide that such a purchase of goods or services may be made only if—

(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the ordering agency; or

(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies;

(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the senior procurement official responsible for purchasing by the ordering agency; and

(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and administering the contract or other agreement under which the order is filled.

(c) MONITORING SYSTEM REQUIRED.—The Administrator for Federal Procurement Policy shall ensure that, not later than one year after the date of the enactment of this Act, systems for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations prescribed pursuant to subsection (a).

(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

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

"(14) establishing policies and procedures that encourage the consideration of contractors' past performance in the selection of contractors.".

(b) GUIDANCE REQUIRED.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) Congress makes the following findings:

"(A) Past contract performance of an offeror is one of the relevant factors that contracting officials of executive agencies should consider in entering into contracts.

"(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be entered into by that official.

"(2) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary; and

"(C) policies for ensuring that—

"(i) offerors are afforded an opportunity to submit relevant information on past contract performance, including performance under contracts entered into by the executive agency concerned, contracts entered into by other departments and agencies of the Federal Government, contracts entered into by agencies of State and local governments, and contracts entered into by commercial customers; and

"(ii) such information submitted by offerors is considered.

"(3) The Administrator shall prescribe for all executive agencies guidance regarding the period for which information on past performance of offerors should be maintained and considered.

"(4) In the case of an offeror regarding whom there is no information on past contract performance or regarding whom information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) REPEAL OF REVERSION TO LOWER THRESHOLD.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENTS FOR CHANGES IN DOLLAR VALUES.—Section 2306a(a) of such title is amended by adding at the end the following new subparagraph:

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS STATED.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) Submission of cost and pricing data shall not be required under subsection (a)—

"(A) in the case of a contract, a subcontract, or a contract or subcontract modification, for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services customarily used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the agency concerned determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) Submission of cost and pricing data shall not be required under subsection (a) in the case of a modification of a contract or subcontract for a commercial item if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost and pricing data may not be required by reason of paragraph (1)(A);

"(B) the modification is not a case in which paragraph (1)(A) prohibits the head of an agency from requiring submission of cost and pricing data; and

"(C) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.".

(b) CONFORMING AMENDMENT TO REFERENCE.—Subsection (a)(5) of such section is amended by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)".

SEC. 1203. LIMITATION ON AUTHORITY TO REQUIRE A SUBMISSION NOT OTHERWISE REQUIRED.

Subsection (c) of section 2306a of title 10, United States Code, is amended to read as follows:

"(c) LIMITATION ON AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted under this section by reason of a $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection) or by reason of an exception set forth in paragraph (1)(A) or (2) of subsection (b), submission of such data may not be required unless the head of an agency concerned determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract to which the data relate. In any case in which the head of an agency requires such data to be submitted in accordance with the preceding sentence, the agency head shall document in writing the reasons for such requirement.".

SEC. 1204. ADDITIONAL SPECIAL RULES FOR COMMERCIAL ITEMS.

Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, the head of an agency shall conduct procurements of commercial items on a competitive basis.

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer shall nonetheless exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains, in accordance with standards and procedures set forth in the Federal Acquisition Regulation, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract or subcontract for a commercial item, or the contract or subcontract modification, as the case may be. The contracting officer may obtain such information from the offeror or contractor or, when such information is not available from that source, from another source or sources.

"(3)(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, the head of an agency shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.".

SEC. 1205. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Section 2306a of title 10, United States Code, is amended by striking out subsection

(g), as redesignated by section 1204(1), and inserting in lieu thereof the following:

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 2313 of this title.".

SEC. 1206. REQUIRED REGULATIONS.

Section 2306a of title 10, United States Code, as amended by sections 1204 and 1205, is further amended by inserting after subsection (g) the following new subsection:

"(h) REQUIRED REGULATIONS.—The Secretary shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed an applicable $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.".

SEC. 1207. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, as amended by section 1204(1), is further amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (e)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties," after "(or price of the modification)"; and

(2) in subsection (i), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1208. EXCEPTION FOR TRANSFERS BETWEEN DIVISIONS, SUBSIDIARIES, AND AFFILIATES.

Subsection (i) of section 2306a of title 10, United States Code, as redesignated by section 1204(1), is amended to read as follows:

"(i) DEFINITIONS.—In this section:

"(1) The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

SEC. 1209. REPEAL OF SUPERSEDED PROVISION.

Subsections (b) and (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) are repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

(a) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304 the following new section:

"COST OR PRICING DATA: TRUTH IN NEGOTIATIONS

"SEC. 304A. (a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) An agency head shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the agency head concerned to submit such data in accordance with subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or in accordance with subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(1)(B) shall be considered as having been required to make available cost or pricing data under this section.

"(6)(A) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(B) An agency head is not required to modify a contract under subparagraph (A) if that agency head determines that the submission of cost or pricing data with respect to that contract should be required in accordance with subsection (c).

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.

"(b) EXCEPTIONS.—(1) Submission of cost and pricing data shall not be required under subsection (a)—

"(A) in the case of a contract, a subcontract, or a contract or subcontract modification, for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services customarily used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the agency head concerned determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) Submission of cost and pricing data shall not be required under subsection (a) in the case of a modification of a contract or subcontract for a commercial item if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost and pricing data may not be required by reason of paragraph (1)(A);

"(B) the modification is not a case in which paragraph (1)(A) prohibits the agency

head from requiring submission of cost and pricing data; and

"(C) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.

"(c) LIMITATION ON AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted under this section by reason of a $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection) or by reason of an exception in paragraph (1)(A) or (2) of subsection (b), submission of such data may not be required unless the agency head concerned determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract to which the data relate. In any case in which the agency head requires such data to be submitted in accordance with the preceding sentence, the agency head shall document in writing the reasons for such requirement.

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, an agency head shall conduct procurements of commercial items on a competitive basis.

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer shall nonetheless exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains, in accordance with standards and procedures set forth in the Federal Acquisition Regulation, information on prices at which the same or similar items have been sold in the commercial market that is adequate for evaluating the reasonableness of the price of the contract or subcontract for a commercial item, or the contract or subcontract modification, as the case may be. The contracting officer may obtain such information from the offeror or contractor or, when such information is not available from that source, from another source or sources.

"(3)(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, an agency head shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.

"(e) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(f) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 304B(a)(2).

"(h) REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall include regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed an applicable $500,000 threshold set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of a proposed contract or subcontract for the procurement.

"(i) DEFINITIONS.—In this section:

"(1) The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

(b) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 304 the following:

"Sec. 304A. Cost or pricing data: truth in negotiations.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

(a) REPEAL.—Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 303E.

Subtitle C—Research and Development

SEC. 1301. RESEARCH PROJECTS.

(a) AUTHORIZED MEANS.—Subsection (b) of section 2358 of title 10, United States Code, is amended to read as follows:

"(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

"(1) by contract entered into with, grant made to, or cooperative agreement entered into with educational or research institutions, private businesses, or other persons in accordance with the provisions of chapter 63 of title 31;

"(2) through one or more military departments;

"(3) by using employees and consultants of the Department of Defense; or

"(4) by mutual agreement with the head of any other department or agency of the Federal Government.".

(b) CAPTION AMENDMENT.—The caption of subsection (c) of such section is amended by striking out "MILITARY" and inserting in lieu thereof "DEPARTMENT OF DEFENSE".

(c) ADVANCED RESEARCH PROJECTS.—

(1) RESTORATION AND REVISION OF FORMER STATEMENT OF AUTHORITY.—Section 2371 of title 10, United States Code, is amended—

(A) by redesignating subsections (a), (b), (c), (d), (e), and (f) as subsections (b), (c), (d), (e), (f), and (g), respectively; and

(B) by inserting before subsection (b), as so redesignated, the following new subsection (a):

"(a) The Secretary of Defense, acting through the Advanced Research Projects Agency and such other elements of the Department of Defense as the Secretary may designate, and the Secretary of each military department, in carrying out basic, applied, and advanced research projects, may enter into other transactions, in addition to contracts, grants, and cooperative agreements authorized by section 2358 of this title.".

(2) CONFORMING AMENDMENTS.—Such section, as amended by paragraph (1), is further amended—

(A) in subsection (b)—

(i) in paragraph (1), by inserting "or subsection (a)" after "section 2358 of this title"; and

(ii) in paragraph (2), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)";

(B) in subsection (c), by inserting "section 2358 of this title or" after "under";

(C) in subsection (d)—

(i) in paragraph (1), by striking out "this section" and inserting in lieu thereof "section 2358 of this title or subsection (a)"; and

(ii) in paragraph (3), by striking out "this section" and inserting in lieu thereof "section 2358 of this title or subsection (a)";

(D) in subsection (e), by inserting "or subsection (a)" in the first sentence after "section 2358 of this title"; and

(E) in subsection (f)—

(i) in the first sentence, by striking out "under this section" and inserting in lieu thereof "under section 2358 of this title or subsection (a)";

(ii) in paragraph (4), by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)"; and

(iii) in paragraph (5), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

SEC. 1302. ELIMINATION OF INFLEXIBLE TERMINOLOGY REGARDING COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.

Section 2364 of title 10, United States Code, is amended—

(1) in subsection (b)(5), by striking out "milestone 0, milestone I, and milestone II decisions" and inserting in lieu thereof "acquisition program decisions"; and

(2) in subsection (c), by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'acquisition program decisions' has the meaning given such term in regulations prescribed by the Secretary of Defense for the purposes of this section.".

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract;".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "25 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance authorization to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after—

"(i) the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required; or

"(ii) in the case of a contract for which no debriefing is required, the date on which the unsuccessful offeror receives the notification of contract award.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "125 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "65 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

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

"(3) An amendment to a protest that adds a new ground of protest, if timely made, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is amended—

(A) in subsection (b), by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract

within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 working days after the end of such 60-day period.";

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

"(A) costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5 for expert witnesses; or

"(B) costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay."; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 125 days after the date the protest is submitted to the Comptroller General.".

(2) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Costs to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly.

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN THE FEDERAL COURTS

SEC. 1421. NONEXCLUSIVITY OF REMEDIES.

Section 3556 of title 31, United States Code, is amended by striking out "a district court of the United States or the United States Claims Court" in the first sentence and inserting in lieu thereof "the United States Court of Federal Claims".

SEC. 1422. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CLAIMS AGAINST THE UNITED STATES AND BID PROTESTS.—Section 1491 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (e);

(2) in subsection (a)—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a) CLAIMS AGAINST THE UNITED STATES.—";

(B) in paragraph (2), by striking out "(2) To" and inserting in lieu thereof "(b) REMEDY AND RELIEF.—To"; and

(C) by striking out paragraph (3); and

(3) by inserting after subsection (b), as designated by paragraph (2)(B), the following new subsection (c):

"(c) BID PROTESTS.—(1) The United States Court of Federal Claims has jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract. The court has jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the court may award any relief that the court considers proper, including declaratory and injunctive relief.

"(3) In exercising jurisdiction under this subsection, the court shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) The district courts of the United States do not have jurisdiction of any action referred to in paragraph (1).".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended by inserting "**BID PROTESTS;**" after "**GENERALLY**;".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1491 and inserting in lieu thereof the following:

"1491. Claims against United States generally; bid protests; actions involving Tennessee Valley Authority.".

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting after the third sentence the following: "The Administrator may revoke a delegation of authority with respect to a particular contract before or after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended—

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

"(C) If, in the case of a preaward protest, the board suspends the procurement authority of the Administrator or the Administrator's delegation of procurement authority,

the Administrator or the delegate, as the case may be, may continue with the procurement action up to, but not including, the awarding of the contract if the Administrator or the delegate, as the case may be, determines that it is in the best interests of the United States to do so."; and

(2) in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending on the date that is 10 days after the date of the contract award or, if later, the date that is 5 days after—

"(I) the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required; or

"(II) in the case of a contract for which no debriefing is required, the date on which the unsuccessful offeror receives the notification of contract award.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10, United States Code, or section 303B(e) of this Act, within 5 days after the later of the date of the filing of the protest or the date of the debriefing.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.".

SEC. 1435. AWARD OF COSTS.

Section 111(f)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation. However, no party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled to costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5, United States Code, for expert witnesses or to costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5, United States Code.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. JURISDICTION OF DISTRICT COURTS.

Section 111(f)(6)(C) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(6)(C)) is amended by striking out "a district court of the United States or".

SEC. 1438. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended by striking out paragraph (8) and inserting in lieu thereof the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions cause the closing of the board or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

"(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate procedural sanctions, including dismissal of the protest.".

SEC. 1439. DEFINITIONS.

(a) PROTEST.—Section 111(f)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)(A)) is amended to read as follows:

"(A) the term 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract;".

(b) PREVAILING PARTY.—Section 111(f)(9) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) the term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3), (4), (5), and (7);

(2) by redesignating paragraph (6) as paragraph (5); and

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

"(3) The terms 'commercial item', 'commercial component', 'full and open competition', 'major system', 'nondevelopmental item', 'procurement', 'procurement system', 'responsible source', 'standards', and 'technical data', have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(4) The term 'simplified acquisition threshold' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.".

SEC. 1502. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Delegation

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for

any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1503. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(e)(1), 2307(e), or 2313(d)(2) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1504. UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection caption, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Section 2326(g)(1)(B) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1505. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT: CONTRACT TERMS AND CONDITIONS.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1506. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(c)) is amended by striking out "and 'supplies'" and inserting in lieu thereof "'supplies', 'commercial item', 'commercial component', 'nondevelopmental item', and 'simplified acquisition threshold'".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by redesignating sections 309 and 310 as sections 312 and 313, respectively; and

(2) by inserting after section 308 the following new section 309:

"DELEGATION

"SEC. 309. (a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, an agency head may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) an agency head may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the items relating to sections 309 and 310 and inserting in lieu thereof the following:

"Sec. 309. Delegation.
"Sec. 312. Definitions.
"Sec. 313. Statutes not applicable.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

(a) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by inserting after section 309 the following new section 310:

"DETERMINATIONS AND DECISIONS

"SEC. 310. (a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(e) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The agency head making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1552, is further amended by inserting after the item relating to section 309 the following:

"Sec. 310. Determinations and decisions.".

SEC. 1554. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules or other contracts by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The District of Columbia.

"(iii) The Commonwealth of Puerto Rico.

"(iv) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under

the Javits-Wagner-O'Day Act, the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(iii) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by striking out "(a) The head of an agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—The head of an agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments";

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments";

(5) by striking out "(d)(1) The Secretary of Defense" and inserting in lieu thereof "(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The Secretary of Defense"; and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(h) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically or, when appropriate, on an advance basis and should be so made in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (b) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) CONDITIONS FOR PROGRESS PAYMENTS.—Such section, as amended by subsection (a)(5), is further amended in subsection (f)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(g) NAVY CONTRACTS.—Such section, as amended by subsection (a)(5), is further amended by inserting after subsection (f) the following new subsection (g):

"(g) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of firms considered to be small businesses; and

"(B) 90 percent, in the case of all other firms.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(h) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—Section 2307(f) of title 10, United States Code, as amended by subsection (f), is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

(i) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CROSS REFERENCE.—Such section, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(j) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) PARTIAL PAYMENTS UNDER NAVY CONTRACTS.—

(A) REPEAL.—Section 7521 of such title is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

SEC. 2002. CONTRACTS: VOUCHERING PROCEDURES.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"CONTRACT FINANCING";

(2) by striking out "(a) Any executive agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—Any executive agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(d) PAYMENT AMOUNT.—Payments"; and

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(e) SECURITY FOR ADVANCE PAYMENTS.—Advance payments".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically or, when appropriate, on an advance basis and should be so made in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A

contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (b) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as receipt of items by the Federal Government, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(d) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(e) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (e) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(f) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—

(1) IN GENERAL.—Such section, as amended by subsection (a), is further amended by adding at the end the following:

"(f) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The agency head shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the agency head determines necessary to permit the agency head to carry out the preceding sentence.

"(2) The agency head shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the agency head has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(g) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to such contractor.

"(2) An agency head receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an agency head under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the agency head whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the agency head in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each agency head shall prescribe procedures to ensure that, before the agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an agency head reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the agency head whether the suspension or reduction should continue.

"(7) Each agency head who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An agency head may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendment made by paragraph (1) is not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

(g) CONFORMING AND CLERICAL AMENDMENTS.—

(1) REFERENCE.—Section 305 of the Federal Property and Administrative Services Act of 1949, as amended by subsection (a), is further amended in subsections (d) and (e) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by striking out the item relating to section 305 and inserting in lieu thereof the following:

"Sec. 305. Contract financing.".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) UNALLOWABILITY OF COSTS TO INFLUENCE LOCAL LEGISLATIVE BODIES.—Subsection (e)(1)(B) of section 2324 of title 10, United States Code, is amended by striking out "or a State legislature" and inserting in lieu thereof ", a State legislature, or a legislative body of a political subdivision of a State".

(b) COMPTROLLER GENERAL EVALUATION.—Section 2324 of such title is amended by striking out subsection (l).

(c) COVERED CONTRACT DEFINED.—Subsection (m) of such section is amended to read as follows:

"(l)(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the Department of Defense, except that such term does not include a fixed-price contract without cost incentives.

"(2) Effective on October 1 of each year that is divisible by 5, the amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

SEC. 2102. CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

(a) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM TREATMENT OF CONTRACT COSTS.—Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"ALLOWABLE COSTS

"SEC. 306. (a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—The head of an executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or an executive agency's supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the agency head determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the agency head shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on regulations issued by the agency head) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the agency head determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such

contractor before the submission of such proposal, the agency head shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—In accordance with the Federal Acquisition Regulation, the agency head may waive a penalty under subsection (b) in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an agency head under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act.

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress, a State legislature, or a legislative body of a political subdivision of a State.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined in accordance with the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Subject to the availability of appropriations, the head of an executive agency, in awarding a covered contract, may waive in accordance with the Federal Acquisition Regulation the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the agency head determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of the executive agency concerned shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the agency head will consider granting such a waiver, and, if the agency head will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) The agency head shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The head of each executive agency shall implement this section with respect to contracts of that executive agency in accordance with the Federal Acquisition Regulation. The provisions of the Federal Acquisition applicable to the implementation of this section may include definitions, exclusions, limitations, and qualifications.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the executive agency's contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, an executive agency's contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of an executive agency's contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REQUIRED REGULATIONS TO SUBCONTRACTORS.—The regulations prescribed to carry out subsections (e) and (f)(1) shall require, to the maximum extent practicable, that such regulations apply to all subcontractors of a covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed by the agency head concerned.

"(2) The agency head concerned may, in an exceptional case, waive the requirement for

certification under paragraph (1) in the case of any contract if the agency head—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default, by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the agency head that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulations.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) COVERED CONTRACT DEFINED.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives.

"(2) Effective on October 1 of each year that is divisible by 5, the amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following:

"Sec. 306. Allowable costs.".

PART III—ACQUISITIONS GENERALLY

SEC. 2191. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is repealed.

SEC. 2192. UNALLOWABILITY OF ENTERTAINMENT COSTS UNDER COVERED CONTRACTS.

Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the cost principle in the Federal Acquisition Regulation that is set out in section 31.205–14 of title 48, Code of Federal Regulations, relating to unallowability of entertainment costs—

(1) by inserting in the cost principle a statement that costs made specifically unallowable under that cost principle are not allowable under any other cost principle; and

(2) by striking out "(but see 31.205–1 and 31.205–13)".

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§ 2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—The head of an agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract under a contract referred to in subparagraph (A) or under any combination of such contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(c) SUBPOENA POWER.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of records of a contractor, access to which is provided to the Secretary of Defense or Secretary of a military department by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(d) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(e) LIMITATION.—The right of the head of an agency under subsection (a), and the right of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(a), is further amended by inserting after section 304A the following new section:

"EXAMINATION OF RECORDS OF CONTRACTOR

"SEC. 304B. (a) AGENCY AUTHORITY.—The head of an executive agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract under a contract referred to in subparagraph (A) or under any combination of such contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304A with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The agency head may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(c) SUBPOENA POWER.—(1) The agency head may require by subpoena the production of records of a contractor, access to which is provided by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be delegated.

"(4) In the year following a year in which the head of an executive agency exercises the authority provided in paragraph (1), the agency head shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report on the exercise of such authority during such preceding year and the reasons why such authority was exercised in any instance.

"(d) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the agency head concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the agency head determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(e) LIMITATION.—The right of an agency head under subsection (a), and the right of the Comptroller General under subsection (d), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) CONTRACTS.—For utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1251(b), is further amended by inserting after the item relating to section 304A the following:

"Sec. 304B. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. EXCEPTIONS TO COVERAGE.

Section 26(f)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out ", other than contracts or subcontracts" and all that follows and inserting in lieu thereof a period; and

(3) by inserting at the end the following:

"(B) Subparagraph (A) does not apply to the following contracts or subcontracts:

"(i) Contracts or subcontracts where the price negotiated is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.

"(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

"(iii) Any other firm fixed-price contract or subcontract for commercial items which is excepted from the requirement to provide cost or pricing data pursuant to subsection (b) or (d) of section 2306a of title 10, United States Code, or subsection (b) or (d) of section 304A of the Federal Property and Administrative Services Act of 1949.

"(C) In this paragraph, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor.".

SEC. 2302. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of the enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2401. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS; QUALITY CONTROL.

(a) REPEAL.—Section 2383 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2383.

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

Section 2403(h) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

PART II—ACQUISITIONS GENERALLY

SEC. 2451. SECTION 3737 OF THE REVISED STATUTES: EXPANSION OF AUTHORITY TO PROHIBIT SETOFFS AGAINST ASSIGNEES; REORGANIZATION OF SECTION; REVISION OF OBSOLETE PROVISIONS.

Section 3737 of the Revised Statutes (41 U.S.C. 15) is amended to read as follows:

"SEC. 3737. (a) No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States is concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

"(b) The provisions of subsection (a) shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency, provided:

"(1) That, in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment.

"(2) That, unless otherwise expressly permitted by such contract, any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing.

"(3) That, in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of the assignment with—

"(A) the contracting officer or the head of his department or agency;

"(B) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and

"(C) the disbursing officer, if any, designated in such contract to make payment.

"(c) Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section shall constitute a valid assignment for all purposes.

"(d) In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

"(e) Any contract of the Department of Defense, the General Services Administration, the Department of Energy, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff. Each such determination of need shall be published in the Federal Register.

"(f) If a provision described in subsection (e) or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of—

"(1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract;

"(2) fines;

"(3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract); or

"(4) taxes, social security contributions, or the withholding or non withholding of taxes or social security contributions, whether arising from or independently of such contract.

"(g) Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights of obligations heretofore accrued.".

SEC. 2452. REPEAL OF REQUIREMENT FOR DEPOSIT OF CONTRACTS WITH GAO.

Section 3743 of the Revised Statutes (41 U.S.C. 20) is repealed.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DOD CERTIFICATION REQUIREMENT IN CONFLICT WITH GOVERNMENTWIDE REQUIREMENT.—

(1) INAPPLICABILITY OF REQUIREMENT TO CONTRACT CLAIMS.—Section 2410 of title 10, United States Code, is amended to read as follows:

"§ 2410. Requests for equitable adjustment or other relief: certification

"(a) CERTIFICATION REQUIREMENT.—A request for equitable adjustment to contract terms or request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) that exceeds the simplified acquisition threshold may not be paid unless a person authorized to certify the request on behalf of the contractor certifies, at the time the request is submitted, that—

"(1) the request is made in good faith, and

"(2) the supporting data are accurate and complete to the best of that person's knowledge and belief.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410 and inserting in lieu thereof the following:

"2410. Requests for equitable adjustment or other relief: certification.".

(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—Section 2410 of title 10, United States Code, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1994, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

(c) DEFINITION.—Section 2410, as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(c) DEFINITION.—In this section, the term 'simplified acquisition threshold' has the meaning given that term in section 2302(4) of this title.".

(d) REPEAL OF RELATED PROVISIONS.—

(1) CERTIFICATION REGULATIONS FOR CONTRACT CLAIMS EXCEEDING $100,000.—

(A) REPEAL.—Section 2410e of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410e.

(2) CONFORMING REPEAL.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484, 106 Stat. 2453), is repealed.

SEC. 2502. SHIPBUILDING CLAIMS.

(a) LIMITATION ON PERIOD FOR SUBMISSION.—

(1) INCREASED PERIOD.—Subsection (a) of section 2405 of title 10, United States Code, is amended—

(A) by striking out "after December 7, 1983," and inserting in lieu thereof "on or after the date of the enactment of the Federal Acquisition Streamlining Act of 1994"; and

(B) by striking out "18 months" and inserting in lieu thereof "6 years".

(2) SAVINGS PROVISION.—Notwithstanding the 6-year period provided in subsection (a) of section 2405 of title 10, United States Code, as amended by paragraph (1), the period applicable under such subsection in the case of a shipbuilding contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Streamlining Act of 1994 shall continue to be 18 months.

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is repealed.

PART II—ACQUISITIONS GENERALLY

SEC. 2551. CLAIMS JURISDICTION OF UNITED STATES DISTRICT COURTS AND THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CONCURRENT JURISDICTION OF UNITED STATES DISTRICT COURTS UNDER THE LITTLE TUCKER ACT.—Subsection (a) of section 1346 of title 28, United States Code, is amended to read as follows:

"(a)(1) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws.

"(2)(A) Except as provided in subparagraph (B), the district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"(B) The district courts shall not have jurisdiction over any civil action or claim against the United States or any Federal entity which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) applies, including a claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such a contract is void, or seeks to determine and construe the terms of such a contract. The district courts do not have jurisdiction over any civil action or claim described in the preceding sentence pursuant to section 1331, 1334, or 1346(a)(2)(B) of this title, any provision of law giving a Federal entity the right to sue or be sued in its own name, or any other provision of law.".

(b) JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS UNDER THE TUCKER ACT.—Section 1491 of title 28, United States Code, as amended by section 1422, is further amended by inserting after subsection (c) the following:

"(d)(1) The United States Court of Federal Claims shall have jurisdiction over any civil action or claim against the United States which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) applies, including a civil action or claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such contract is void, or seeks to determine and construe the terms of any such contract.

"(2) The jurisdiction of the United States Court of Federal Claims is, pursuant to section 1346(a)(2)(B) of this title, exclusive as to the district courts of the United States.".

SEC. 2552. CONTRACT DISPUTES ACT IMPROVEMENTS.

(a) PERIOD FOR FILING CLAIMS.—

(1) SIX-YEAR LIMITATION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsection (a) by inserting after the second sentence the following: "Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the occurrence of the event or events giving rise to the claim. The preceding sentence does not apply to a claim by the government against a contractor that is based on a claim by the contractor involving fraud.".

(2) LIMITATION ON APPLICABILITY TO EXISTING CONTRACTS.—Notwithstanding the third sentence of section 6(a) of the Contract Disputes Act of 1978, as added by paragraph (1), if a contract in existence on the date of the enactment of this Act requires that a claim referred to in that sentence be submitted earlier than 6 years after the occurrence of the event or events giving rise to the claim, then the claim shall be submitted within the period required by the contract. The preceding sentence does not apply to a claim by the Federal Government against a contractor that is based on a claim by the contractor involving fraud.

(b) INCREASED THRESHOLD FOR CERTIFICATION, DECISION, AND NOTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) INCREASED MAXIMUM FOR APPLICABILITY OF ACCELERATED PROCEDURES.—Section 8(f) of the Contract Disputes Act of 1978 (41 U.S.C. 607(f)) is amended by striking out "$50,000" in the first sentence and inserting in lieu thereof "$150,000".

(d) INCREASED MAXIMUM FOR APPLICABILITY OF SMALL CLAIMS PROCEDURE.—Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)) is amended by striking out "$10,000" in the first sentence and inserting in lieu thereof "$50,000".

(e) REDUCED PERIOD FOR FILING ACTION IN COURT OF FEDERAL CLAIMS.—Section 10(a)(3) of such Act (41 U.S.C. 609(a)(3)) is amended by striking out "twelve months" and inserting in lieu thereof "90 days".

SEC. 2553. EXTENSION OF ALTERNATIVE DISPUTE RESOLUTION AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Section 6(e) of the Contracts Disputes Act of 1978 (41 U.S.C. 605(e)) is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1999".

(b) AVAILABILITY OF PROCEDURES TO SMALL BUSINESS GOVERNMENT CONTRACTORS.—Section 6(e) of such Act is amended by inserting after the first sentence the following: "In any case in which the contracting officer rejects a contractor's request for alternative dispute resolution proceedings, the contracting officer shall provide the contractor with a written explanation, citing one or more of the conditions in section 572(b) of title V, United States Code, or such other specific reasons that alternative dispute resolution procedures are inappropriate for the resolution of the dispute. In any case in which a contractor rejects a request of an agency for alternative dispute resolution proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.".

SEC. 2554. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION COMPLAINTS.

(a) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall include provisions that require a contracting officer—

(1) to make every reasonable effort to respond in writing within 30 days to any written request made to a contracting officer with respect to a matter relating to the administration of a contract that is received from a small business concern; and

(2) in the event that the contracting officer is unable to reply within the 30-day period, to transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

The provisions shall not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(b) RULE OF CONSTRUCTION.—Nothing in this provision shall be considered as creating any rights under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(c) DEFINITION.—In this section, the term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to that section.

SEC. 2555. AUTHORITY FOR DISTRICT COURTS TO OBTAIN ADVISORY OPINIONS FROM BOARDS OF CONTRACT APPEALS IN CERTAIN CASES.

Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended by adding at the end the following new paragraph:

"(f)(1) Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request a board of contract appeals to provide the court with an advisory opinion on the matters of contract interpretation at issue.

"(2) An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this Act.

"(3) A district court shall direct any request under paragraph (1) to the board of contract appeals having jurisdiction under this Act to adjudicate appeals of contract claims under the contract or contracts being interpreted by the court.

"(4) Within ninety days after receiving a request for an advisory opinion under paragraph (1), a board of contract appeals shall provide the advisory opinion to the district court making the request.".

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. REQUIREMENT FOR INDEPENDENT COST ESTIMATES AND MANPOWER ESTIMATES BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Section 2434 of title 10, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates

required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the cost of a program—

"(A) be prepared by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required to train for, operate, maintain, and support the program upon full operational deployment.".

(b) TERMINOLOGY CORRECTION.—Subsection (a) of such section is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3002. ENHANCED PROGRAM STABILITY.

(a) BASELINE DESCRIPTIONS AND DEVIATION REPORTING.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out paragraph (2); and

(B) in paragraph (1)—

(i) by striking out "(1)"; and

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing—

"(1) the content of baseline descriptions, which shall include the program cost, the program schedule, and a program performance description;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

"(3) procedures for review of deviation reports within the Department of Defense; and

"(4) procedures for submission and approval of revised baseline descriptions.

"(c) BASELINE DESCRIPTION REQUIRED BEFORE OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), no amount appropriated or otherwise made available to the Department of Defense may be obligated for a major defense acquisition program before a baseline description for the program is approved in accordance with the procedures prescribed pursuant to subsection (b)(4).

"(2) An obligation otherwise prohibited by paragraph (1) may be incurred if approved in advance by the Under Secretary of Defense for Acquisition and Technology.".

(b) TERMINOLOGY CORRECTION.—Subsection (a)(1) of such section, as redesignated by subsection (a)(1)(B)(ii), is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3003. REPEAL OF REQUIREMENT TO DESIGNATE CERTAIN MAJOR DEFENSE ACQUISITION PROGRAMS AS DEFENSE ENTERPRISE PROGRAMS.

Section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2430 note) is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 3004. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3005. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES IN MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. DIRECTOR OF OPERATIONAL TEST AND EVALUATION TO REPORT DIRECTLY TO SECRETARY OF DEFENSE.

Section 139(c) of title 10, United States Code, is amended by inserting after "(c)" the following: "The Director reports directly, without intervening review or approval, to the Secretary of Defense and Deputy Secretary of Defense personally.".

SEC. 3012. RESPONSIBILITY OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION FOR LIVE FIRE TESTING.

(a) CONDUCT OF LIVE FIRE TESTING.—Subsection (b) of section 139 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

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

"(6) conduct the live fire testing activities of the Department of Defense provided for under section 2366 of this title.".

(b) ANNUAL REPORT ON LIVE FIRE TESTING.—Subsection (f) of such section is amended by inserting "(including live fire testing activities)" in the first sentence after "operational test and evaluation activities".

SEC. 3013. REQUIREMENT FOR UNCLASSIFIED VERSION OF ANNUAL REPORT ON OPERATIONAL TEST AND EVALUATION.

Section 139(f) of title 10, United States Code, is amended by inserting after the second sentence the following new sentence: "If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.".

Subtitle C—Service Specific Laws

SEC. 3021. GRATUITOUS SERVICES OF OFFICERS OF CERTAIN RESERVE COMPONENTS.

Section 279 of title 10, United States Code, is amended—

(1) by striking out "Notwithstanding" and inserting in lieu thereof "(a) ACCEPTANCE BY SECRETARY OF A MILITARY DEPARTMENT.—Notwithstanding"; and

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

"(b) ACCEPTANCE BY SECRETARY OF DEFENSE.—Notwithstanding section 1342 of title 31, the Secretary of Defense may accept the gratuitous services of an officer of a reserve component (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States) in consultation upon matters relating to the armed forces.".

SEC. 3022. AUTHORITY TO RENT SAMPLES, DRAWINGS, AND OTHER INFORMATION TO OTHERS.

Subchapter V of chapter 148 of title 10, United States Code, is amended in section 2541(a) by inserting "rent," after "sell," each place it appears in paragraphs (1) and (2).

SEC. 3023. CIVIL RESERVE AIR FLEET.

(a) DEFINITIONS.—Section 9511 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "'civil aircraft'," after "'person',";

(B) by striking out "meaning" and inserting in lieu thereof "meanings"; and

(C) by striking out "(49 U.S.C. 1301)" and inserting in lieu thereof "(49 U.S.C. App. 1301)";

(2) in paragraph (2), by striking out "passenger-cargo" and inserting in lieu thereof "passenger cargo";

(3) in paragraph (3), by striking out "cargo-capable" and inserting in lieu thereof "cargo capable";

(4) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'cargo convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.";

(5) by striking out paragraph (6);

(6) by redesignating paragraph (7) as paragraph (6);

(7) by redesignating paragraph (8) as paragraph (7) and—

(A) in subparagraph (A) of such paragraph, by inserting "under section 9512 of this title" after "and who contracts with the Secretary";

(B) by striking out "or" at the end of such subparagraph (A); and

(C) by inserting before the period at the end of such paragraph the following: ", or (C) who owns or controls existing aircraft, or will own or control new aircraft, and who contractually commits all or some of such aircraft to the Civil Reserve Air Fleet";

(8) by redesignating paragraphs (9), (10), (11), and (12) as paragraphs (8), (9), (10), and (11), respectively; and

(9) in paragraph (11), as so redesignated—

(A) by striking out "interoperability" and inserting in lieu thereof "compatibility"; and

(B) by striking out "a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft" and inserting in lieu thereof "an aeromedical aircraft or a cargo convertible, cargo capable, or passenger cargo combined aircraft".

(b) CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.—Chapter 931 of such title is amended—

(1) by redesignating subsections (b) and (c) of section 9512 as subsections (c) and (d), respectively;

(2) by redesignating subsection (a) of section 9513 as subsection (b), transferring such subsection (as so redesignated) to section 9512, and inserting such subsection after subsection (a);

(3) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(4) in subsection (c) of section 9512, as redesignated by paragraph (1), by striking out "the terms required by section 9513 of this title and";

(5) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (3), by striking out "under section 9512 of this title" and inserting in lieu

thereof "entered into under this section"; and

(6) by striking out the heading of section 9513.

(c) USE OF MILITARY INSTALLATIONS BY CONTRACTORS.—

(1) AUTHORITY.—Such chapter, as amended by subsection (b), is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, a service stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations for commercial operations not required by the Department of Defense and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) DISPOSITION OF PAYMENTS FOR USE.—Notwithstanding any other provision of law, amounts collected from the contractor for landing fees, services, supplies, or other charges authorized to be collected under the contract shall be credited to the appropriations of the armed forces having jurisdiction over the military installation to which the contract pertains. Amounts so credited to an appropriation shall be available for obligation for the same period as the appropriation to which credited.

"(d) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the United States from all actions, suits, or claims of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary or, in the case of an installation under the jurisdiction of an armed force other than the Air Force, the Secretary concerned may at any time and without prior notice deny access to an installation designated under the contract if military exigencies require such action.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

SEC. 3024. EXCHANGE OF PERSONNEL.

(a) EXCHANGE AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2350k. Exchange of personnel

"(a) INTERNATIONAL EXCHANGE AGREEMENTS AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary and the secretaries of the military departments are each authorized to enter into agreements with the governments of foreign countries for the exchange of military and civilian personnel of the Department of Defense and military and civilian personnel of the defense departments or ministries of such foreign governments.

"(b) ASSIGNMENT OF PERSONNEL.—Pursuant to such agreements, personnel of the foreign defense departments or ministries may be assigned to positions in the Department of Defense, and personnel of the Department of Defense may be assigned to positions in foreign defense departments or ministries. Agreements for the exchange of personnel engaged in research and development activities may provide for assignments to positions in private industry that support the defense departments or ministries. The specific positions and the individuals to be assigned must be acceptable to both the sending government and the host government.

"(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an agreement authorized by subsection (a) to provide personnel having qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

"(d) PAYMENT OF PERSONNEL COSTS.—Each government shall pay the salary, per diem, cost of living, travel, cost of language or other training, and other costs (except for cost of temporary duty directed by the host government and costs incident to the use of host government facilities in the performance of assigned duties) for its own personnel in accordance with the laws and regulations of such government that pertain to such matters.".

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

"2350k. Exchange of personnel.".

SEC. 3025. SCIENTIFIC INVESTIGATION AND RESEARCH FOR THE NAVY.

(a) REPEAL.—Section 7203 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7203.

SEC. 3026. CONSTRUCTION OF COMBATANT AND ESCORT VESSELS AND ASSIGNMENT OF VESSEL PROJECTS.

(a) REPEAL OF OBSOLETE AND INTERNALLY INCONSISTENT PROVISIONS.—Section 7299a of title 10, United States Code, is amended—

(1) by striking out subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) CONFORMING AMENDMENT.—Subsection (b) of such section, as redesignated by subsection (a)(2), is amended in paragraph (2) by striking out "subsection (a) or".

SEC. 3027. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF VESSELS ON PACIFIC COAST.

(a) REPEAL.—Section 7302 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7302.

SEC. 3028. AUTHORITY TO TRANSFER BY GIFT A VESSEL STRICKEN FROM NAVAL VESSEL REGISTER.

Section 7306(a)(1) of title 10, United States Code, is amended by inserting "Territory," after "State,".

SEC. 3029. NAVAL SALVAGE FACILITIES.

Chapter 637 of title 10, United States Code, is amended—

(1) in section 7361—

(A) in subsection (a), by inserting "AUTHORITY TO PROVIDE FACILITIES BY CONTRACT OR OTHERWISE.—" after "(a)";

(B) in subsection (b), by inserting "CONTRACTS AFFECTING THE DEPARTMENT OF TRANSPORTATION.—" after "(b)"; and

(C) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c) LIMITATION ON TERM CONTRACTS.—Term contracts may be entered into for purposes of this section only after—

"(1) it has been demonstrated to the satisfaction of the Secretary of the Navy that available commercial salvage facilities are inadequate to meet national defense requirements; and

"(2) the Secretary of the Navy determines that adequate public notice of intent to exercise the authority under this subsection has been provided.";

(2) by designating the text of section 7362 as subsection (d) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(3) in subsection (d) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "COMMERCIAL USE OF NAVAL VESSELS AND EQUIPMENT.—";

(4) by designating the text of section 7363 as subsection (e) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(5) in subsection (e) of section 7361 of such title, as so designated and transferred, by inserting before "Before any salvage vessel" the following: "CONDITIONS FOR TRANSFER OF EQUIPMENT.—";

(6) by designating the text of section 7365 as subsection (f) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(7) in subsection (f) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "SETTLEMENT OF CLAIMS.—";

(8) by designating the text of section 7367 as subsection (g) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(9) in subsection (g) of section 7361 of such title, as so designated and transferred—

(A) by inserting before "Money received" the following: "DISPOSITION OF RECEIPTS.—"; and

(B) by striking out "this chapter" in the first sentence and inserting in lieu thereof "this section";

(10) by striking out the section headings for sections 7362, 7363, 7365, and 7367;

(11) by striking out the heading for section 7361 and inserting in lieu thereof the following:

"§ 7361. Navy support for salvage operations"; and

(12) in the table of sections at the beginning of such chapter—

(A) by striking out the item relating to section 7361 and inserting in lieu thereof the following:

"7361. Navy support for salvage operations."; and

(B) by striking out the items relating to sections 7362, 7363, 7365, and 7367.

Subtitle D—Department of Defense Commercial and Industrial Activities

SEC. 3051. ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services.

"(iii) Technical support of research and development activities.

"(iv) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

(c) REPEAL OF SUPERSEDED PROVISIONS.—

(1) TITLE 10.—

(A) REPEAL.—Section 2212 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2212.

(2) TITLE 31.—

(A) REPEAL.—Section 1114 of title 31, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 1114.

Subtitle E—Fuel- and Energy-Related Laws

SEC. 3061. LIQUID FUELS AND NATURAL GAS: CONTRACTS FOR STORAGE, HANDLING, OR DISTRIBUTION.

Section 2388(a) of title 10, United States Code, is amended by striking out "liquid fuels and natural gas" and inserting in lieu thereof "liquid fuels or natural gas".

Subtitle F—Fiscal Statutes

SEC. 3071. DISBURSEMENT OF FUNDS OF MILITARY DEPARTMENT TO COVER OBLIGATIONS OF ANOTHER AGENCY OF DEPARTMENT OF DEFENSE.

Subsection (c)(2) of section 3321 of title 31, United States Code, is amended by striking out "military departments of the" and inserting in lieu thereof "The".

Subtitle G—Miscellaneous

SEC. 3081. OBLIGATION OF FUNDS: LIMITATION.

Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Obligation of funds: limitation

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

SEC. 3082. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item related to section 2369.

SEC. 3083. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Lease of vessels, aircraft, and vehicles

"The head of an agency named in paragraph (1), (2), (3), or (4) of section 2303(a) of this title may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement without previously having considered all costs of such lease (including estimated termination liability) and determined in writing that such lease is in the best interest of the Government.".

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

"2410l. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101-165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3084. SOFT DRINK SUPPLIES FOR EXCHANGE STORES.

Section 2424 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Paragraphs (1) and (2) of subsection (b) do not apply to contracts for the procurement of soft drinks that are manufactured in the United States. The Secretary of Defense shall prescribe in regulations the standards and procedures for determining whether a particular drink is a soft drink and whether the drink was manufactured in the United States.".

SEC. 3085. REPEAL OF PREFERENCE FOR RECYCLED TONER CARTRIDGES.

The following provisions of law, relating to a preference for procurement of recycled toner cartridges, are repealed:

(1) Section 630 of Public Law 102-393 (106 Stat. 1773) and the provision of law set out in quotes in that section (42 U.S.C. 6962(j)).

(2) Section 401 of Public Law 103-123 (107 Stat. 1238).

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. SIMPLIFIED ACQUISITION THRESHOLD.

(a) TERM DEFINED.—Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended to read as follows:

"(11) The term 'simplified acquisition threshold' means $100,000.".

(b) INTERIM REPORTING RULE.—Until October 1, 1999, procuring activities shall continue to report procurement awards with a dollar value of at least $25,000, but less than $100,000, in conformity with the procedures for the reporting of a contract award in excess of $25,000 that were in effect on October 1, 1992.

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. SIMPLIFIED ACQUISITION PROCEDURES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SIMPLIFIED ACQUISITION PROCEDURES

"SEC. 29. (a) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for contracts for acquisition of property and services that are not in excess of the simplified acquisition threshold.

"(b) Regulations prescribed pursuant to subsection (a) shall include the following provisions:

"(1) A provision that a contract with an anticipated value not in excess of $2,500 is not subject to section 15(j) of the Small Business Act (15 U.S.C. 644(j)) and section 2 of title III of the Act of March 3, 1933 (commonly known as the 'Buy America Act') (41 U.S.C. 10a et seq.).

"(2) A provision that a civilian or military official, or employee of an agency, whose contracting authority does not exceed $2,500 is not a procurement official for the purposes of section 27 of this Act.

"(3) A provision that a purchase not in excess of $2,500 may be made without obtaining competitive quotations if the contracting officer determines that the price for the purchase is reasonable.

"(4) A requirement that purchases not in excess of $2,500 be distributed equitably among qualified suppliers.

"(5) A requirement that a contracting officer consider each responsive offer timely received from an eligible offeror.

"(c) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a).

"(d) In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.".

SEC. 4012. SMALL BUSINESS RESERVATION.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended to read as follows:

"(j)(1) Each contract for the purchase of goods and services that has an anticipated value in excess of $2,500 but not in excess of the simplified acquisition threshold and that is subject to simplified acquisition procedures prescribed pursuant to section 29 of the Office of Federal Procurement Policy Act shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being purchased.

"(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

"(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not in excess of the simplified acquisition threshold under the authority of subsection (a) or (c) of section 8 of this Act,

section 2323 of title 10, United States Code, or section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100-656; 15 U.S.C. 644 note).".

SEC. 4013. FAST PAYMENT UNDER SIMPLIFIED ACQUISITION PROCEDURES.

(a) PAYMENT PROCEDURES.—The simplified acquisition procedures described in section 29(a) of the Office of Federal Procurement Policy Act (as added by section 4011) shall provide for use of the payment terms described in subsection (b), and for the disbursement of payment through electronic fund transfer, whenever circumstances permit.

(b) REQUIRED PAYMENT TERMS.—The payment terms for a purchase made pursuant to simplified acquisition procedures shall require payment, in accordance with the provisions of chapter 39 of title 31, United States Code, within 15 days after the date of the receipt of a proper invoice for products delivered or services performed, if—

(1) in the case of a purchase of property, title to the property vests in the Government upon delivery of the property to the Government or to a common carrier;

(2) in the case of property or services for which payment is due before the Government's acceptance of the property or services, the vendor provides commercial or other appropriate warranties assuring that the property or services purchased conform to the requirements set forth in the Government's purchase offer; and

(3) funds are available for making the payment.

(c) DISBURSEMENTS TO BE MATCHED WITH OBLIGATIONS.—The simplified acquisition procedures shall include procedures that ensure that each request for a disbursement is matched with a particular obligation before the disbursement is made under the payment terms provided for under subsection (a).

SEC. 4014. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(2) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order expected to exceed the simplified acquisition threshold,".

(b) CONTENT OF NOTICE.—Subsection (b) of such section is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(c) NOTICE NOT REQUIRED IN ELECTRONIC COMMERCE.—Subsection (c)(1) of such section, as amended by section 1055(b), is further amended—

(1) by redesignating subparagraphs (A), (B), (C), (D), (E) and (F) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively; and

(2) by inserting above subparagraph (B), as so redesignated, the following new subparagraph (A):

"(A) the proposed procurement is conducted by means of electronic commerce pursuant to a system that, as determined by the Administrator for Federal Procurement Policy, has the capabilities described in subsections (a) and (b) of section 4015 of the Federal Acquisition Streamlining Act of 1994;".

(d) NOTICE UNDER THE SMALL BUSINESS ACT.—

(1) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(A) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(B) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order estimated to exceed the simplified acquisition threshold,".

(2) CONTENT OF NOTICE.—Subsection (f) of such section is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed the $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

SEC. 4015. ELECTRONIC COMMERCE FOR FEDERAL GOVERNMENT PROCUREMENTS.

(a) DEVELOPMENT AND IMPLEMENTATION OF SYSTEM.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal Government agencies having applicable technical and functional expertise, may take appropriate steps to develop and implement a Federal Governmentwide architecture or design for electronic commerce that provides interoperability among users.

(b) REQUIRED CAPABILITIES.—The requirements analysis prepared to implement the architecture or design of a system of electronic commerce referred to in subsection (a) shall have the following capabilities:

(1) The maximum practicable capability for electronic exchange of such procurement information as solicitations, offers, contracts, purchase orders, invoices, payments, and other contractual documents between the private sector and the Federal Government.

(2) Capabilities that increase the access of businesses, including small business concerns, socially and economically disadvantaged small business concerns, and businesses owned predominantly by women, to Federal Government procurement opportunities.

(3) Easy access for potential Federal Government contractors.

(4) Use of nationally and internationally recognized data formats that broaden and ease electronic interchange of data.

(5) Use of Federal Government systems and networks and industry systems and networks.

(c) NOTICE AND SOLICITATION REGULATIONS.—In connection with implementation of the architecture or design referred to in subsection (a), the Federal Acquisition Regulatory Council shall ensure that the Federal Acquisition Regulation contains appropriate notice and solicitation provisions applicable to acquisitions conducted through such architecture or design. The provisions shall specify the required form and content of notices of acquisitions and the minimum periods for notifications of solicitations and for deadlines for the submission of offers under solicitations. Each minimum period specified for a notification of solicitation and each deadline for the submission of offers under a solicitation shall afford potential offerors a reasonable opportunity to respond.

(d) LIMITATION OF PUBLICATION REQUIREMENT.—The requirement in section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) for publishing notice of a solicitation in the Commerce Business Daily shall not apply to acquisitions of a Federal agency or a component of a Federal agency that are made through electronic commerce and have a value not in excess of the simplified acquisition threshold if the Federal Acquisition Regulation contains the provisions specifically required by subsection (c) and the Administrator for Federal Procurement Policy certifies that such agency or component—

(1) has fully implemented the architecture or design referred to in subsection (a); and

(2) has procedures in place—

(A) to provide notice to potential offerors in accordance with the requirements of the Federal Acquisition Regulation prescribed pursuant to subsection (c); and

(B) to ensure that small business concerns are afforded an opportunity to respond to a solicitation of contract offers within the period specified in the solicitation.

(e) DEFINITION.—In this section, the term "simplified acquisition threshold" has the meaning given that term is section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

PART III—APPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

SEC. 4021. FUTURE ENACTED PROCUREMENT LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4011, is further amended by adding at the end the following new section:

"APPLICABILITY OF CERTAIN LAWS TO CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD

"SEC. 30. (a) IN GENERAL.—The applicability of a provision of law described in subsection (b) to contracts not in excess of the simplified acquisition threshold may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) REFERENCED LAW.—A provision of law referred to in subsection (a) is any provision of law enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 that, as determined by the Administrator for Federal Procurement Policy, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

SEC. 4022. ARMED SERVICES ACQUISITIONS.

(a) REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(b) PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(c) AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (f) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

(d) REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(e) PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(f) PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The prohibition in paragraph (1) does not apply with respect to the following:

"(A) A contract referred to in subparagraph (A), (B), (C), or (D) of such paragraph that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

"(C) A subcontract referred to in such subparagraph that is under a contract described in subparagraph (A).".

SEC. 4023. CIVILIAN AGENCY ACQUISITIONS.

(a) REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(b) PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold.".

(c) AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (f) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

SEC. 4024. ACQUISITIONS GENERALLY.

(a) LIMITATION ON USE OF FUNDS TO INFLUENCE CERTAIN FEDERAL ACTIONS.—Section 1352(e)(2)(B) of title 31, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

(b) REQUIREMENT FOR CONTRACT CLAUSE RELATING TO KICKBACKS.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57) is amended by adding at the end the following new subsection:

"(d) Subsections (a) and (b) do not apply to a prime contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(c) MILLER ACT.—

(1) IN GENERAL.—

(A) CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD.—The Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act", is amended by adding at the end the following new section:

"SEC. 5. This Act does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(B) CONFORMING AMENDMENT.—Subsection (a) of the first section of such Act is amended by striking out ", exceeding $25,000 in amount,".

(2) ALTERNATIVE PAYMENT PROTECTIONS.—

(A) PROTECTIONS TO BE SPECIFIED IN THE FAR.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in subparagraph (C).

(B) USE OF AUTHORIZED PROTECTIONS.—The contracting officer for a contract shall—

(i) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subparagraph (A), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for such contract; and

(ii) specify in the solicitation of offers for such contract the payment protection or protections so selected.

(C) COVERED CONTRACTS.—

(i) APPLICABILITY.—The regulations required under subparagraph (A) and the requirements of subparagraph (B) apply with respect to contracts referred to in subsection (a) of the first section of the Miller Act that are in excess of $25,000 but not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(ii) MILLER ACT REFERENCE.—The Miller Act referred to in subparagraph (A) is the Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act".

(d) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—

(1) IN GENERAL.—Section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 329) is amended by adding at the end the following new subsection:

"(c) This title does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(2) CONFORMING AMENDMENT.—Section 107(a) of such Act (40 U.S.C. 333(a)) is amended by inserting after "It shall be a condition of each contract" the following: "(other than a contract referred to in section 103(c))".

(e) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of such Act (41 U.S.C. 403(11))) by any Federal agency".

(f) CERTAIN PROCUREMENT INTEGRITY REQUIREMENTS.—

(1) CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold".

(2) CONTRACT CLAUSE REQUIREMENT.—Subsection (g)(1) of such section is amended by inserting after "awarded by a Federal agency" the following: "(other than a contract in an amount that is not in excess of the simplified acquisition threshold)".

(g) SOLID WASTE DISPOSAL ACT.—Section 6002(a) of the Solid Waste Disposal Act (42 U.S.C. 6962(a)) is amended by striking out all that follows "with respect to any" and inserting in lieu thereof "contract in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of title 10, United States Code, is amended by striking out "small purchases)" in the matter above subparagraph (A) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) PROPERTY AND SERVICES GENERALLY.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(A) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(B) by striking out paragraphs (2) and (5);

(C) in paragraph (3)—

(i) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(ii) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(E) in paragraph (4), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(F) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold.

"(B) For purposes of subparagraph (A), the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter above paragraph (1) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)), as amended by section 1071, is further amended in the second sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements in excess of the simplified acquisition threshold".

SEC. 4074. SMALL BUSINESS ACT.

(a) DEFINITION.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended by striking out "'small purchase threshold'" and inserting in lieu thereof "'simplified acquisition threshold'".

(b) USE OF SIMPLIFIED ACQUISITION THRESHOLD TERM.—Section 8(d)(2)(A) of the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The Council shall amend the regulations so identified as necessary to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—The head of each Federal agency that has issued regulations, policies, or procedures referred to in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall identify any such regulations, policies, or procedures that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The agency head shall amend the regulations so identified as necessary to provide that such regulations, policies, and procedures do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation, policy, or procedure for which such an amendment would not be in the national interest, as determined by the agency head.

(c) COMPLETION OF ACTIONS.—All actions under this section shall be completed not later than 180 days after the date of the enactment of this Act.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as amended by section 4001.

(2) The term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. ACQUISITIONS GENERALLY.

(a) REPEAL OF EXECUTED REPORTING REQUIREMENT.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516) is repealed.

(b) WALSH-HEALEY ACT.—

(1) REPEAL OTHER THAN FOR CERTAIN DEFINITIONAL PURPOSES.—The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", is amended to read as follows:

"SECTION 1. (a) The Secretary of Labor may prescribe in regulations the standards for determining whether a contractor is a manufacturer of or a regular dealer in materials, supplies, articles, or equipment to be manufactured or used in the performance of a contract entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States, for the manufacture or furnishing of materials, supplies, articles, and equipment.

"(b) Any interested person shall have the right of judicial review of any legal question regarding the interpretation of the terms 'regular dealer' and 'manufacturer', as defined pursuant to subsection (a)."

(2) CONFORMING AMENDMENT.—Section 2304(h) of title 10, United States Code, is amended to read as follows:

"(h) For the purposes of the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.), purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures.".

(c) REPEAL OF REDUNDANT REQUIREMENT REGARDING APPLICABILITY OF THE DAVIS-BACON ACT AND THE WALSH-HEALEY ACT.—Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

SEC. 4102. ACQUISITIONS FROM SMALL BUSINESSES.

(a) SET-ASIDE PRIORITY.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by striking out subsections (e) and (f).

(b) CERTIFICATE OF COMPETENCE.—Section 804 of Public Law 103-484 (106 Stat. 2447; 10 U.S.C. 2305 note) is repealed.

SEC. 4103. CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS.

(a) PROCUREMENT PROCEDURES AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by inserting after subsection (b) the following new subsection:

"(c)(1) To facilitate the attainment of a goal for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals that is established for a Federal agency pursuant to section 15(g)(1), the head of the agency may enter into contracts using—

"(A) less than full and open competition by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals described in subsection (d)(3)(C) of this section; and

"(B) a price evaluation preference not in excess of 10 percent when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

"(2) Paragraph (1) does not apply to the Department of Defense.".

(b) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall be amended to provide for uniform implementation of the authority provided in section 8(c) of the Small Business Act, as added by subsection (a).

(2) MATTERS TO BE ADDRESSED.—The provisions of the Federal Acquisition Regulation prescribed pursuant to paragraph (1) shall include—

(A) conditions for the use of advance payments;

(B) provisions for contract payment terms that provide for—

(i) accelerated payment for work performed during the period for contract performance; and

(ii) full payment for work performed;

(C) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to section 8(c)(1)(B) of the Small Business Act, as added by subsection (a), to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(D)(i) procedures for a person to request the head of Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(ii) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

(c) TERMINATION.—Section 8(c) of the Small Business Act, as added by subsection (a), shall cease to be effective at the end of September 30, 1999.

SEC. 4104. PROCUREMENT GOALS FOR SMALL BUSINESS CONCERNS OWNED BY WOMEN.

(a) GOALS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" each place it appears in the first sentence and fourth sentences of subsection

(g)(1), the second sentence of subsection (g)(2), and paragraphs (1), (2)(A), (2)(D), and (2)(E) of subsection (h) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) in subsection (g)—

(A) by inserting after the third sentence of paragraph (1) the following: "The Government-wide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.";

(B) in the first sentence of paragraph (2), by striking out "and by small business concerns owned and controlled by socially and economically disadvantaged individuals," and inserting in lieu thereof ", by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women"; and

(C) in the fourth sentence of paragraph (2), by inserting after "including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals" the following: "and by participation small business concerns owned and controlled by women"; and

(3) in subsection (h)(2)(F), by striking out "women-owned small business enterprises" and inserting in lieu thereof "small business concerns owned and controlled by women".

(b) SUBCONTRACT PARTICIPATION.—Section 8(d) of such Act (15 U.S.C. 637(d)) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" both places it appears in paragraph (1), both places it appears in paragraph (3)(A), in paragraph (4)(D), in subparagraphs (A), (C), and (F) of paragraph (6), and in paragraph (10)(B) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) by striking out subparagraph (D) in paragraph (3) and inserting in lieu thereof the following:

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.";

(3) in paragraph (3), by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The term 'small business concern owned and controlled by women' shall mean a small business concern—

"(i) which is at least 51 per centum owned by one or more women; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and

"(ii) whose management and daily business operations are controlled by one or more women."; and

(4) in paragraph (4)(E), by inserting "and for small business concerns owned and controlled by women" after "as defined in paragraph (3) of this subsection".

(c) MISREPRESENTATIONS OF STATUS.—(1) Subsection (d)(1) of section 16 of such Act (15 U.S.C. 645) is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(2) Subsection (e) of such section is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(d) DEFINITION.—Section 3 of such Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) For the purposes of this Act, a small business concern is a small business concern owned and controlled by women if—

"(1) at least 51 percent of small business concern is owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

"(2) the management and daily business operations of the business are controlled by one or more women.".

SEC. 4105. DEVELOPMENT OF DEFINITIONS REGARDING CERTAIN SMALL BUSINESS CONCERNS.

(a) REVIEW REQUIRED.—

(1) DEFINITIONS TO BE IDENTIFIED.—The Administrator for Federal Procurement Policy shall conduct a comprehensive review of Federal laws, as in effect on November 1, 1994, to identify and catalogue all of the provisions in such laws that define (or describe for definitional purposes) the small business concerns set forth in paragraph (2) for purposes of authorizing the participation of such small business concerns as prime contractors or subcontractors in—

(A) contracts awarded directly by the Federal Government or subcontracts awarded under such contracts; or

(B) contracts and subcontracts funded, in whole or in part, by Federal financial assistance under grants, cooperative agreements, or other forms of Federal assistance.

(2) COVERED SMALL BUSINESS CONCERNS.—The small business concerns referred to in paragraph (1) are as follows:

(A) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

(B) Minority-owned small business concerns.

(C) Small business concerns owned and controlled by women.

(D) Woman-owned small business concerns.

(b) MATTERS TO BE DEVELOPED.—On the basis of the results of the review carried out under subsection (a), the Administrator for Federal Procurement Policy shall develop—

(1) uniform definitions for the small business concerns referred to in subsection (a)(2);

(2) uniform agency certification standards and procedures for—

(A) determinations of whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) under an applicable standard for purposes contracts and subcontracts referred to in subsection (a)(1); and

(B) reciprocal recognition by an agency of a decision of another agency regarding whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) for such purposes; and

(3) such other related recommendations as the Administrator determines appropriate consistent with the review results.

(c) PROCEDURES AND SCHEDULE.—

(1) PARTICIPATION BY CERTAIN INTERESTED PARTIES.—The Administrator for Federal Procurement Policy shall provide for the participation in the review and activities under subsections (a) and (b) by representatives of—

(A) the Small Business Administration (including the Office of the Chief Counsel for Advocacy);

(B) the Minority Business Development Agency of the Department of Commerce;

(C) the Department of Transportation;

(D) the Environmental Protection Agency; and

(E) such other executive departments and agencies as the Administrator considers appropriate.

(2) CONSULTATION WITH CERTAIN INTERESTED PARTIES.—In carrying out subsections (a) and (b), the Administrator shall consult with representatives of organizations representing—

(A) minority-owned business enterprises;

(B) women-owned business enterprises; and

(C) other organizations that the Administrator considers appropriate.

(3) SCHEDULE.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register a notice which—

(A) lists the provisions of law identified in the review carried out under subsection (a);

(B) describes the matters to be developed on the basis of the results of the review pursuant to subsection (b);

(C) solicits public comment regarding the matters described in the notice pursuant to subparagraphs (A) and (B) for a period of not less than 60 days; and

(D) addresses such other matters as the Administrator considers appropriate to ensure the comprehensiveness of the review and activities under subsections (a) and (b).

(d) REPORT.—Not later than May 1, 1995, the Administrator for Federal Procurement Policy shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of the review carried out under subsection (a) and the actions taken under subsection (b). The report shall include a discussion of the results of the review, a description of the consultations conducted and public comments received, and the Administrator's recommendations with regard to the matters identified under subsection (b).

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. PROHIBITION ON USE OF FUNDS FOR DOCUMENTING ECONOMIC OR EMPLOYMENT IMPACT OF CERTAIN ACQUISITION PROGRAMS.

(a) REVISION AND CODIFICATION.—

(1) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

"No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.".

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

"2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.".

(b) REPEAL OF SUPERSEDED LAW.—Section 9048 of Public Law 102-396 (106 Stat. 1913) is repealed.

SEC. 4152. RESTRICTION ON USE OF NON-COMPETITIVE PROCEDURES FOR PROCUREMENT FROM A PARTICULAR SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 1005(b), is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (j)," after "(5)"; and

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

"(j)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

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

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

TITLE V—ACQUISITION MANAGEMENT

Subtitle A—Armed Services Acquisitions

SEC. 5001. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—

(1) IN GENERAL.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2219. Performance based management: acquisition programs

"(a) CONGRESSIONAL POLICY.—It is the policy of Congress that—

"(1) the Department of Defense should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the Department of Defense without reducing the performance or capabilities of the items being acquired; and

"(2) the average period necessary for converting an emerging technology into initial operational capability for the Department of Defense should not exceed 8 years.

"(b) ESTABLISHMENT OF GOALS.—(1) The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense.

"(2) The Comptroller of the Department of Defense shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the Secretary of Defense shall—

"(1) identify and consider whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements taking into consideration—

"(A) the needs of the Department known as of the time of consideration;

"(B) the state of the technology or technologies relevant to the programs and to the needs of the Department;

"(C) the estimated costs and projected schedules necessary for the completion of such programs; and

"(D) other pertinent information; and

"(2) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered pursuant to paragraph (1).

"(d) ANNUAL REPORTING REQUIREMENT.—The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of the progress made in implementing the policy stated in subsection (a). The Secretary shall use data from existing management systems in making the assessment.".

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

"2219. Performance based management: acquisition programs.".

(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Secretary of Defense shall review the incentives and personnel actions available to the Secretary for encouraging excellence in the defense acquisition workforce and provide an enhanced system of incentives for the encouragement of excellence in such workforce. The enhanced system of incentives shall, to the maximum extent consistent with applicable law—

(1) relate pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs of the department pursuant to section 2219(b) of title 10, as added by subsection (a)); and

(2) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs of the department pursuant to section 2219(b) of title 10, United States Code, as added by subsection (a).

(c) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 2219 of title 10, United States Code, as added by subsection (a), and otherwise to facilitate and enhance management of Department of Defense acquisition programs and the defense acquisition workforce on the basis of performance.

SEC. 5002. RESULTS ORIENTED ACQUISITION PROGRAM CYCLE.

The Secretary of Defense shall define in regulations a simplified acquisition program cycle that is results-oriented. The Secretary shall consider including in the regulations provisions for the following:

(1) Program phases as follows:

(A) An integrated decision team meeting which—

(i) may be requested by a potential user of the system or component to be acquired, the head of a laboratory, or a program office on such bases as the emergence of a new military requirement, cost savings opportunity, or new technology opportunity;

(ii) is conducted by an acquisition program executive officer; and

(iii) is usually completed within 1 to 3 months.

(B) A prototype development and testing phase which—

(i) includes operational tests and concerns relating to manufacturing operations and life cycle support;

(ii) is usually completed within 6 to 36 months; and

(iii) produces sufficient numbers of prototypes to assess operational utility.

(C) Product integration, development, and testing which—

(i) includes full-scale development, operational testing, and integration of components; and

(ii) is usually completed within 1 to 5 years.

(D) Production, integration into existing systems, or production and integration into existing systems.

(2) An acquisition program approval process for major program decisions which consists of the following:

(A) One major decision point—

(i) which occurs for an acquisition program before the program proceeds into product integration and development; and

(ii) at which the Under Secretary of Defense for Acquisition and Technology, in consultation with the Vice Chairman of the Joint Chiefs of Staff reviews the program, determines whether the program should continue to be carried out beyond product integration and development, and decides whether to commit to further development, to require further prototyping, or to terminate the program.

(B) Consideration of the potential benefits, affordability, needs, and risks of an acquisition program in the review of the acquisition program.

SEC. 5003. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

(a) PROGRAMS AND WAIVERS.—The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) is amended by inserting the following new section at the end of subtitle D of title VIII:

"SEC. 840. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

"(a) ELIGIBLE PROGRAMS.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

"(1) Defense Personnel Support Center medical, clothing and textile, and subsistence programs with respect to the following:

"(A) All contracts for processed fruits and vegetables and frozen seafood items for both depot stock and direct vendor delivery.

"(B) All contracts in the subsistence prime vendor program for grocery items.

"(C) All contracts in the Mail Order Pharmacy Program, the prime vendor programs for pharmaceuticals and for medical surgical items for delivery to military hospitals.

"(D) All contracts in the medical electronic commerce program for acquisition for depot stock and direct vendor delivery.

"(E) All contracts for the following items: dress coats (small lots), dress coats, duffel bags, Navy work clothing, general purpose tents, suitcases, gloves for electrical workers, boot flyers, socks, drawers, undershirts, and items offered under the Broad Agency Announcements for Clothing and Textiles Advanced Business Practices Demonstration Program.

"(2) The Fire Support Combined Arms Tactical Trainer program with respect to all contracts directly related to the procurement of a training system (including related hardware, software, and subsystems) to perform collective training of field artillery gunnery team components with development of software as required to generate the training exercises and component interfaces.

"(3) The Joint Direct Attack Munition program (JDAM I) with respect to all contracts directly related to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit for inventory 1,000 and 2,000 pound bombs.

"(4) The Joint Primary Aircraft Training System (JPATS) with respect to all contracts directly related to the acquisition of a new primary trainer aircraft to fulfill Air Force and Navy joint undergraduate aviation training requirements, and an associated ground-based training system consisting of air crew training devices (simulators), courseware, a Training Management System, and contractor support for the life of the system.

"(5) The Commercial Derivatives Aircraft program with respect to all contracts directly related to the acquisition or upgrading of civil-derivative aircraft for use in (A) foreign military sales of Airborne Warning and Control Systems to foreign governments with modifications of a type customarily provided to commercial customers, or (B) future Air Force airlift and tanker requirements.

"(6) The Commercial Derivative Engine program with respect to all contracts directly related to the acquisition of (A) commercially derived engines (including spare engines), logistics support equipment, technical orders, management data, and initial spare parts for use in the C–17A production line, and (B) commercially derived engines to support the purchase of commercial-derivative aircraft to meet future Air Force airlift and tanker requirements, including engine replacement and upgrades.

"(b) WAIVER AUTHORITY.—Subject to section 809(c) of the National Defense Authorization Act for Fiscal Year 1991, the Secretary of Defense is authorized—

"(1) to apply any amendment or repeal of a provision of law made in the Federal Acquisition Streamlining Act of 1994 to the programs described in subsection (a) before the effective date of such amendment or repeal; and

"(2) to apply to a procurement of noncommercial items under such programs—

"(A) any authority provided in such Act (or in an amendment made by a provision of such Act) to waive a provision of law in the case of commercial items, and

"(B) any exception applicable under such Act (or an amendment made by a provision of such Act) in the case of commercial items, before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of noncommercial items.

"(c) PILOT PROGRAM IMPLEMENTATION.—In exercising the authority provided in section 809 of the National Defense Authorization Act for 1991, and in accordance with sections 833 through 839 of this Act, the Secretary of Defense, shall take the following actions:

"(1) MISSION-ORIENTED PROGRAM MANAGEMENT.—For one or more of the defense acquisition programs designated for participation in the defense acquisition pilot program, prescribe and implement procedures which—

"(A) provide for interaction between the program manager and the commander of the operational command responsible for the requirement for the equipment acquired;

"(B) include provisions for a determination by the commander that items proposed for procurement fulfill the need defined in approved requirements documents; and

"(C) may include a role for the operational commander in decision making for program milestone decisions and performance of acceptance testing of items acquired.

"(2) SAVINGS OBJECTIVES.—Not later than 45 days after the date of enactment of the Federal Acquisition Streamlining Act of 1994, identify for each defense acquisition program participating in the pilot program quantitative measures and goals for reducing acquisition management costs.

"(3) PROGRAM PHASES.—For each defense acquisition program participating in the pilot program, incorporate in an approved acquisition strategy a program review process that provides senior acquisition officials with reports that—

"(A) contain essential information on program results at quarterly intervals;

"(B) reduce data requirements from the current major program review reporting requirements; and

"(C) include data on program costs estimates, actual expenditures, performance estimates, performance data from tests, and, consistent with existing statutes, the minimum necessary other data items required to ensure the appropriate expenditure of funds appropriated for that program.

"(4) PROGRAM WORK FORCE POLICIES.—With regard to the review of incentives and personnel actions required under section 836 of this Act—

"(A) not later than 60 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994—

"(i) complete the review; and

"(ii) on the basis of the review, define one or more systems that relate incentives, including pay, to achievement of budgets, schedules, and performance requirements;

"(B) not later than 120 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994—

"(i) apply such a system of incentives to not less than one defense acquisition program participating in the pilot program; and

"(ii) provide for an assessment of the effectiveness of that system; and

"(C) incorporate the results of actions taken pursuant to this paragraph into the development of regulations for the implementation of section 5001(b) of the Federal Acquisition Streamlining Act of 1994.

"(5) EFFICIENT CONTRACTING PROCESS.—Take any additional actions that the Secretary considers necessary to waive regulations, not required by statute, that affect the efficiency of the contracting process, including, in the Secretary's discretion, defining alternative techniques to reduce reliance on military specifications and standards in contracts for the defense acquisition programs participating in the pilot program.

"(6) CONTRACT ADMINISTRATION: PERFORMANCE BASED CONTRACT MANAGEMENT.—For at least one participating defense acquisition program for which a determination is made to make payments for work in progress under the authority of section 2307 of title 10, United States Code, define payment milestones on the basis of quantitative measures of results.

"(7) CONTRACTOR PERFORMANCE ASSESSMENT.—Collect and evaluate performance information on each contract entered into for a defense acquisition program participating in the pilot program, including information on cost, schedule, and technical performance for each contractor supporting a participating program.

"(d) APPLICABILITY.—(1) Subsection (b) applies with respect to—

"(A) a contract that is awarded or modified during the period described in paragraph (2); and

"(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

"(2) The period referred to in paragraph (1) is the period that begins 45 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 and ends on September 30, 1998.".

(b) RULE OF CONSTRUCTION.—Nothing in section 840 of the National Defense Authorization Act for Fiscal Year 1994, as added by subsection (a), shall be construed as authorizing the appropriation or obligation of funds for the programs designated for participation in the defense acquisition pilot program under the authority of subsection (a) of such section 840.

Subtitle B—Civilian Agency Acquisitions

SEC. 5051. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 301 et seq.), as amended by sections 1552 and 1553, is further amended by adding at the end the following new section:

"PERFORMANCE BASED MANAGEMENT: ACQUISITION PROGRAMS

"SEC. 311. (a) CONGRESSIONAL POLICY.—It is the policy of Congress that the head of each executive agency should achieve, on average, 90 percent of the cost and schedule goals established for the research and development programs and acquisition programs of the agency without reducing the performance or capabilities of the items being acquired.

"(b) ESTABLISHMENT OF GOALS.—(1) The head of each executive agency shall approve or define the cost, performance, and schedule goals for major acquisition programs of the agency.

"(2) The chief financial officer of an executive agency shall evaluate the cost goals proposed for each major defense acquisition program of the agency.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the head of an executive agency shall—

"(1) identify and consider whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements taking into consideration—

"(A) the needs of the agency known as of the time of consideration;

"(B) the state of the technology or technologies relevant to the programs and to the needs of the agency;

"(C) the estimated costs and projected schedules necessary for the completion of such programs; and

"(D) other pertinent information; and

"(2) identify existing and potential research and development programs and acquisition programs that are suitable alternatives for programs considered pursuant to paragraph (1).".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by sections 1552 and 1553, is further amended by inserting after the item relating to section 310 the following new item:

"Sec. 311. Performance based management: acquisition programs.".

(b) ANNUAL REPORTING REQUIREMENT.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405), as amended by section 1091, is further amended by adding at the end the following new subsection:

"(k) The Administrator shall submit to Congress, on an annual basis, an assessment of the progress made in executive agencies in implementing the policy stated in section 311(a) of the Federal Property and Administrative Services Act of 1949. The Administrator shall use data from existing management systems in making the assessment.".

(c) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy, in consultation with appropriate officials in other departments and agencies of the Federal Government, shall, to the maximum extent consistent with applicable law—

(1) establish policies and procedures for the heads of such departments and agencies to designate acquisition positions and manage employees (including the accession, education, training and career development of employees) in the designated acquisition positions;

(2) extend to the acquisition workforce of the entire executive branch the acquisition workforce policies contained in chapter 87 of title 10, United States Code, relating to the acquisition workforce of the Department of Defense; and

(3) review the incentives and personnel actions available to the heads of department and agencies of the Federal Government for encouraging excellence in the acquisition workforce of the Federal Government and provide an enhanced system of incentives for the encouragement of excellence in such workforce which—

(A) relates pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 311(b) of the Federal Property and Administrative Services Act of 1949, as added by subsection (a)); and

(B) provides for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.

(d) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 311 of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), and otherwise to facilitate and enhance management of Federal Government acquisition programs and the acquisition workforce of the Federal Government on the basis of performance.

SEC. 5052. RESULTS-ORIENTED ACQUISITION PROCESS.

(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal agencies, shall develop a results-oriented acquisition process for implementation by agencies in acquisitions of property and services by the Federal agencies. The process shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of noncommercial items by a Federal agency satisfies the needs for which the items are being acquired.

(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process developed pursuant to subsection (a) may not be applied to the Department of Defense.

Subtitle C—Miscellaneous

SEC. 5091. CONTRACTOR EXCEPTIONAL PERFORMANCE AWARDS.

The Office of Federal Procurement Policy Act, as amended by section 4021, is further amended by adding at the end the following:

"CONTRACTOR EXCEPTIONAL PERFORMANCE AWARDS

"SEC. 31. (a) ESTABLISHMENT.—There is hereby established an executive branch program to recognize and promote exceptional contract performance by Federal Government contractors.

"(b) SELECTION.—(1) The Administrator shall ensure the establishment of criteria for selection of contractors to receive exceptional performance awards under the program.

"(2) The head of an executive agency may select one or more agency contractors to receive an exceptional performance award under the program.

"(c) AWARD CEREMONY.—The Vice President, or the head of the executive agency selecting a contractor for an exceptional performance award, shall present the award to the contractor with such ceremony as the Vice President or head of the agency, as the case may be, considers appropriate.".

SEC. 5092. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics Provisions

SEC. 6001. AMENDMENTS TO OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

(a) RECUSAL.—Subsection (c) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in paragraph (1)—

(A) in the matter above subparagraph (A), by inserting "only" after "subsection (b)(1)"; and

(B) in subparagraph (A), by inserting "(including the modification or extension of a contract)" after "any procurement";

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) Whenever the head of a procuring activity approves a recusal under paragraph (1), a copy of the recusal request and the approval of the request shall be retained by such official for a period (not less than five years) specified in regulations prescribed in accordance with subsection (o).

"(3)(A) Except as provided in subparagraph (B), all recusal requests and approvals of recusal requests pursuant to this subsection shall be made available to the public on request.

"(B) Any part of a recusal request or an approval of a recusal request that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public otherwise required under subparagraph (A).''; and

(3) in paragraph (4), by striking out "competing contractor" and inserting in lieu thereof "person".

(b) APPLICABILITY OF CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of such section is amended by adding at the end the following: "However, paragraph (1)(B) does not apply with respect to a contract for less than $500,000.".

(c) RESTRICTIONS RESULTING FROM PROCUREMENT ACTIVITIES OF PROCUREMENT OFFICIALS.—Subsection (f) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) No individual who, in the year prior to separation from service as an officer or employee of the Government or an officer of the uniformed services in a covered position, participated personally and substantially in acquisition functions related to a contract, subcontract, or claim of $500,000 or more and—

"(A) engaged in repeated direct contact with the contractor or subcontractor on matters relating to such contract, subcontract, or claim; or

"(B) exercised significant ongoing decisionmaking responsibility with respect to the contractor or subcontractor on matters relating to such contract, subcontract, or claim,

shall knowingly accept or continue employment with such contractor or subcontractor for a period of 1 year following the individual's separation from service, except that such individual may accept or continue employment with any division or affiliate of such contractor or subcontractor that does not produce the same or similar products as the entity involved in the negotiation or performance of the contract or subcontract or the adjustment of the claim.

"(2) No contractor or subcontractor, or any officer, employee, agent, or consultant of such contractor or subcontractor shall knowingly offer, provide, or continue any employment for another person, if such contractor, subcontractor, officer, employee, agent, or consultant knows or should know that the acceptance of such employment is or would be in violation of paragraph (1).

"(3) The head of each Federal agency shall designate in writing as a 'covered position' under this section each of the following positions in that agency:

"(A) The position of source selection authority, member of a source selection evaluation board, or chief of a financial or technical evaluation team, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the evaluation of proposals or the selection of a source for a contract in excess of $500,000.

"(B) The position of procuring contracting officer, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the negotiation of a contract in excess of $500,000 or the negotiation or settlement of a claim in excess of $500,000.

"(C) The position of program executive officer, program manager, or deputy program manager, or any other position, if the officer or employee in that position is likely personally to exercise similar substantial responsibility for ongoing discretionary functions in the management or administration of a contract in excess of $500,000.

"(D) The position of administrative contracting officer, the position of an officer or employee assigned on a permanent basis to a Government Plant Representative's Office, the position of auditor, a quality assurance position, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the onsite oversight of a contractor's operations with respect to a contract in excess of $500,000.

"(E) A position in which the incumbent is likely personally to exercise substantial responsibility for ongoing discretionary functions in operational or developmental testing activities involving repeated direct contact with a contractor regarding a contract in excess of $500,000.".

(d) DISCLOSURE OF PROPRIETARY OR SOURCE SELECTION INFORMATION TO UNAUTHORIZED PERSONS.—Subsection (l) of such section is amended—

(1) by inserting "who are likely to be involved in contracts, modifications, or extensions in excess of $25,000" in the first sentence after "its procurement officials"; and

(2) by striking out "(e)" each place it appears and inserting in each such place "(f)".

(e) RULES OF CONSTRUCTION.—Subsection (n) of such section is amended to read as follows:

"(n) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an inspector general of a Federal agency;

"(2) restrict the disclosure of information to, or receipt of information by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

"(3) restrict a contractor from disclosing its own proprietary information or the recipient of information so disclosed by a contractor from receiving such information; or

"(4) restrict the disclosure or receipt of information relating to a Federal agency procurement that has been canceled by the agency and that the contracting officer concerned determines in writing is not likely to be resumed.".

(f) TERM TO BE DEFINED IN REGULATIONS.—Subsection (o)(2)(A) of such section is amended—

(1) by inserting "money, gratuity, or other" before "thing of value'"; and

(2) by inserting before the semicolon "and such other exceptions as may be adopted on a Governmentwide basis under section 7353 of title 5, United States Code".

(g) TERMS DEFINED IN LAW.—Subsection (p) of such section is amended—

(1) in paragraph (1) by striking out "clauses (i)-(viii)" and inserting in lieu thereof "clauses (i) through (vii)";

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking out clause (i);

(ii) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), and (viii) as clauses (i), (ii), (iii), (iv), (v), (vi), and (vii), respectively; and

(iii) in clause (i) (as redesignated by subclause (II) of this clause), by striking out "review and approval of a specification" and inserting in lieu thereof "approval or issuance of a specification, acquisition plan, procurement request, or requisition"; and

(B) in subparagraph (B), by striking out all after "includes" and inserting in lieu thereof the following: "any individual acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned, regardless of whether such individual is a consultant, expert, or adviser, or an officer or employee of a contractor or subcontractor (other than a competing contractor).''; and

(3) in paragraph (6)(A), by inserting "nonpublic" before "information".

SEC. 6002. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 208(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Except as permitted"; and

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

"(2) Whoever knowingly aids, abets, counsels, commands, induces, or procures conduct prohibited by this section shall be subject to the penalties set forth in section 216 of this title.".

SEC. 6003. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following provisions of law are repealed:

(1) Sections 2207, 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(2) Section 281 of title 18, United States Code.

(3) Section 801 of title 37, United States Code.

(4) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218).

(b) CLERICAL AMENDMENTS.—

(1) TITLE 10.—Part IV of subtitle A of title 10, United States Code, is amended—

(A) in the table of sections at the beginning of chapter 131, by striking out the item relating to section 2207; and

(B) in the table of sections for chapter 141, by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

(2) TITLE 18.—The table of sections for chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) TITLE 37.—The table of sections for chapter 15 of title 37, United States Code, is amended by striking out the item relating to section 801.

(4) DEPARTMENT OF ENERGY ORGANIZATION ACT.—The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

SEC. 6004. IMPLEMENTATION.

(a) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, regulations implementing the amendments made by section 6001 to section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), including definitions of the terms used in subsection (f) of such section, shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405 and 521) after coordination with the Director of the Office of Government Ethics.

(b) SAVINGS PROVISIONS.—

(1) CONTRACTOR CERTIFICATIONS.—No officer, employee, agent, representative, or consultant of a contractor who has signed a certification under section 27(e)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(1)(B)) before the effective date of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(2) FEDERAL PROCUREMENT OFFICIAL CERTIFICATIONS.—No procurement official of a Federal agency who has signed a certification under section 27(l) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(l)) before the date of enactment of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(c) INSPECTOR GENERAL REPORTS.—Not later than May 31 of each of the years 1995 through 1998, the Inspector General of each Federal agency (or, in the case of a Federal agency that does not have an Inspector General, the head of such agency) shall submit to Congress a report on the compliance by the agency during the preceding year with the requirement for the head of the agency to designate covered procurement positions under section 27(f)(3) of the Office of Federal Procurement Policy Act (as added by section 6001(c)).

Subtitle B—Additional Amendments

SEC. 6051. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1092, is further amended by inserting after section 22 the following new section 23:

"CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL

"SEC. 23. (a) LIMITATION ON PAYMENT FOR ADVISORY AND ASSISTANCE SERVICES.—(1) No person who is not a person described in subsection (b) may be paid by an agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless personnel described in subsection (b) with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the head of each agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of personnel described in subsection (b) within the agency or another Federal agency are readily available to perform a particular evaluation or analysis for the agency head making the determination; and

"(B) the readily available personnel have the training and capabilities necessary to perform the evaluation or analysis.

"(b) COVERED PERSONNEL.—For purposes of subsection (a), the personnel described in this subsection are as follows:

"(1) An employee, as defined in section 2105 of title 5, United States Code.

"(2) A member of the Armed Forces of the United States.

"(3) A person assigned to a Federal agency pursuant to subchapter VI of chapter 33 of title 5, United States Code.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to affect the relationship between the Federal Government

and a federally funded research and development center.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(1) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(2) provide guidance and promulgate regulations regarding—

(A) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(B) the manner in which personnel with expertise may be shared with agencies needing expertise for such acquisitions.

SEC. 6052. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 6053. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 6054. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

(a) INCREASED PERIOD.—Section 22(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by adding at the end the following: "Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.".

(b) TECHNICAL AMENDMENT.—Section 22(d) of such Act is amended by designating the second sentence as paragraph (3).

Subtitle C—Whistleblower Protection

SEC. 6101. ARMED SERVICES PROCUREMENTS.

(a) WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.—Section 2409 of title 10, United States Code, is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the Secretary of Defense determines that a defense contractor has subjected a person to a reprisal prohibited by subsection (a), the Secretary may take one or more of the following actions:

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

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

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

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the Secretary shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the Secretary's order. Review shall conform to chapter 7 of title 5.".

(b) RELATED LAW.—

(1) REPEAL.—Section 2409a of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2409a.

SEC. 6102. GOVERNMENTWIDE WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 5091, is further amended by adding at the end the following new section:

"CONTRACTOR EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

"SEC. 32. (a) PROHIBITION OF REPRISALS.—An employee of an executive agency contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the agency or the Department of Justice information relating to a substantial violation of law related to an agency contract (including the competition for or negotiation of an agency contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency. In the case of an executive agency that does not have an inspector general, the duties of the inspector general under this section shall be performed by an official designated by the agency head.

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the head of an executive agency determines that an agency contractor has subjected a person to a reprisal prohibited by subsection (a), the agency head may take one or more of the following actions:

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

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

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

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the agency head shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the agency head's order. Review shall conform to chapter 7 of title 5, United States Code.

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

"(e) COORDINATION WITH OTHER LAW.—This section does not apply with respect to the Department of Defense. For the corresponding provision of law applicable to the Department of Defense, see section 2409 of title 10, United States Code.

"(f) DEFINITION.—In this section, the term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978.".

TITLE VII—DEFENSE TRADE AND COOPERATION

SEC. 7001. PURCHASES OF FOREIGN GOODS.

(a) REPEAL OF EXECUTED REQUIREMENTS.—

(1) REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(2) REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

(b) REPEAL OF REDUNDANT PROVISION.—

(1) CONSIDERATION OF NATIONAL SECURITY OBJECTIVES.—Section 2327 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2327.

SEC. 7002. INTERNATIONAL COOPERATIVE AGREEMENTS.

(a) TERMINOLOGY REVISIONS.—Section 2531 of title 10, United States Code, is amended—

(1) in the subsection captions for subsections (a) and (c), by striking out "MOUs AND RELATED" and inserting in lieu thereof "INTERNATIONAL";

(2) in subsection (a), by striking out "proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding," in the matter above paragraph (1) and inserting in lieu thereof "proposed international agreement,

including a memorandum of understanding,";

(3) by striking out "memorandum of understanding or related agreement" each place it appears and inserting in lieu thereof "international agreement";

(4) in subsection (b), by striking out "memorandum or related agreement" each place it appears in the second sentence and inserting in lieu thereof "international agreement"; and

(5) in subsection (c)—

(A) by striking out "A" after "AGREEMENTS.—" and inserting in lieu thereof "An"; and

(B) by striking out "memorandum or agreement" and inserting in lieu thereof "international agreement".

(b) EXPANDED SCOPE OF AGREEMENTS.—Section 2531(a) of title 10, United States Code, is amended by striking out "research, development, or production" in the matter above paragraph (1) and inserting in lieu thereof "research, development, production, or logistics support".

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 2531 of title 10, United States Code, is amended to read as follows:

"§ 2531. Defense international agreements".

(2) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2531. Defense international agreements.".

SEC. 7003. ACQUISITION, CROSS-SERVICING AGREEMENTS, AND STANDARDIZATION.

(a) LIMITED WAIVER OF RESTRICTIONS ON ACCRUED REIMBURSABLE LIABILITIES AND CREDITS FOR CONTINGENCY OPERATIONS.—Section 2347 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may waive the restrictions in subsections (a) and (b) for a period not to exceed 180 days upon a written determination that the armed forces are involved in a contingency operation or that involvement of the armed forces in a contingency operation is imminent. Upon making such a determination, the Secretary shall transmit a copy of the determination to the Committees on Armed Services of the Senate and House of Representatives.".

(b) COMMUNICATIONS SUPPORT.—Section 2350f of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Nothing in this section shall be construed to limit the authority of the Secretary of Defense, without a formal bilateral agreement or multilateral arrangement, to furnish communications support and related supplies to, or receive communications support and related supplies from, an allied country in accordance with this subsection.

"(2) The Secretary of Defense may furnish or receive such support and supplies on a reciprocal basis for a period not to exceed 90 days—

"(A) in order to meet emerging operational requirements of the United States and the allied country; or

"(B) incident to a joint military exercise with the allied country.

"(3) If interconnection of communication circuits is maintained for joint or multilateral defense purposes under the authority of this subsection, the costs of maintaining such circuits may be allocated among the various users.".

TITLE VIII—COMMERCIAL ITEMS

SEC. 8001. DEFINITIONS.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), as amended by section 4001(a), is further amended—

(1) by striking out "Act—"and inserting in lieu thereof "Act:";

(2) by capitalizing the initial letter in the first word of each paragraph;

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period;

(4) in paragraphs (4) and (10), by striking out "; and" at the end and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means—

"(A) property, other than real property, that is of a type customarily used by the general public or by nongovernmental entities in the course of normal business operations for purposes other than governmental purposes and—

"(i) has been sold, leased, or licensed to the general public;

"(ii) has not been sold, leased, or licensed to the general public but has been offered for sale, lease, or license to the general public; or

"(iii) is not yet available in the commercial marketplace but will be made available for commercial delivery within a reasonable period;

"(B) any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A);

"(C) any combination of items meeting the requirements of subparagraph (A), (B), or (D) that are of a type customarily combined and sold in combination to the general public;

"(D) installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), or (C) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public; and

"(E) any item, combination of items, or service referred to in subparagraph (A), (B), (C), or (D), regardless of whether the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(13) The term 'nondevelopmental item' means—

"(A) any commercial item;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification of the type normally available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

"(D) any item of supply currently being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

SEC. 8002. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS.

(a) PREFERENCE REQUIRED.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 6102, is further amended by adding at the end the following new section:

"PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS

"SEC. 33. (a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the executive agency with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items may be procured to fulfill such requirements; and

"(3) offerors of commercial items and other nondevelopmental items are provided an opportunity to compete in any procurement to fill such requirements.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items or other nondevelopmental items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items or other nondevelopmental items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items in response to the executive agency solicitations;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, other nondevelopmental items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.

"(3) In conducting market research, the head of an executive agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) SEPARATE STATEMENT OF PREFERENCE FOR DEPARTMENT OF DEFENSE.—Section 2325 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 8003. ACQUISITION OF COMMERCIAL ITEMS.

(a) REQUIRED FAR PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8002, is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATION PROVISIONS REGARDING ACQUISITIONS OF COMMERCIAL ITEMS AND COMPONENTS

"SEC. 34. (a) CONTRACT CLAUSES AND OTHER CLAUSES.—(1)(A) The Federal Acquisition Regulation shall include one or more sets of contract clauses containing the required terms and conditions for the acquisition of commercial items and commercial components by executive agencies and by contractors in the performance of contracts of executive agencies.

"(B) The contract clauses referred to in subparagraph (A) shall include only—

"(i) those clauses that are required to implement provisions of law or executive orders applicable to acquisitions of commercial items or commercial components, as the case may be;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in an acquisition of commercial items or commercial components, as the case may be; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice.

"(2) Subject to paragraph (3), the Federal Acquisition Regulation shall require that, to the maximum extent practicable, only the contract clauses referred to in paragraph (1) be used in a contract, or be required to be used in a subcontract, for the acquisition of commercial items or commercial components by or for an executive agency.

"(3) The Federal Acquisition Regulation shall provide that a contract or subcontract referred to in paragraph (2) may contain contract clauses other than the contract clauses referred to in that paragraph only if the other clauses are essential for the protection of the Federal Government's interest in—

"(A) that contract or subcontract, as determined in writing by the contracting officer for such contract; or

"(B) a class of contracts or subcontracts, as determined by the head of an agency concerned, unless the determination of that head of an agency is disapproved by the Administrator.

"(4) The Federal Acquisition Regulation shall provide standards and procedures for waiving the use of contract clauses required pursuant to paragraph (1), other than those required by law, including standards for determining the cases in which a waiver is appropriate.

"(b) MARKET ACCEPTANCE.—(1) The Federal Acquisition Regulation shall provide that under appropriate conditions the head of an executive agency may require offerors to demonstrate that the items offered—

"(A) have either—

"(i) achieved commercial market acceptance; or

"(ii) been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements; and

"(B) otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation relating to the contract.

"(2) The Federal Acquisition Regulation shall provide guidance to ensure that the criteria for determining commercial market acceptance include the consideration of—

"(A) the minimum needs of the executive agency concerned; and

"(B) the entire relevant commercial market, including small businesses.

"(c) USE OF FIRM, FIXED PRICE CONTRACTS.—The Federal Acquisition Regulation shall include a requirement that firm, fixed price contracts or fixed price with economic price adjustment contracts, be used, to the maximum extent practicable, for the acquisition of commercial items.

"(d) CONTRACT QUALITY REQUIREMENTS.—The Federal Acquisition Regulation shall include provisions that—

"(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the contractor's existing quality assurance system as a substitute for compliance with a requirement for the Federal Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Federal Government;

"(2) require that, to the maximum extent practicable, an executive agency accept commercial warranties (including extended warranties) offered by offerors of commercial items to commercial customers and use such warranties for the repair and replacement of commercial items; and

"(3) set forth guidance to executive agencies regarding the use of past performance of items and sources as a factor in contract award decisions.

"(e) TREATMENT OF TRANSFERS BETWEEN AFFILIATES.—The Federal Acquisition Regulation shall provide for a transfer of commercial items from one division, subsidiary, or affiliate of a contractor to another division, subsidiary, or affiliate of the contractor to be treated as a subcontract for purposes of section 35 of the Office of Federal Procurement Policy Act and the provisions of law amended by section 8005 of the Federal Acquisition Streamlining Act of 1994.".

(b) DEFENSE CONTRACT CLAUSES.—

(1) TERMINATION OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 2325 note) shall cease to be effective on the date on which the regulations implementing section 34 of the Office of Federal Procurement Policy Act, as added by subsection (a), become effective.

(2) SAVINGS PROVISION.—Notwithstanding section 34(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)), contracts of the Department of Defense entered into before the date on which section 824(b) ceases to be effective under paragraph (1), and subcontracts entered into before such date under such contracts, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 2325 note).

SEC. 8004. CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8003, is further amended by adding at the end the following:

"CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS TO ACQUISITIONS OF COMMERCIAL ITEMS

"SEC. 35. (a) IN GENERAL.—The applicability of a provision of law described in subsection (c) that is enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 to contracts for the acquisition of commercial items may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) WAIVER OF APPLICABILITY TO SUBCONTRACTS.—(1) The applicability of a provision of law described in subsection (c) to subcontracts under a contract for the acquisition of commercial items or a subcontract for the acquisition of commercial components may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(2) Nothing in this subsection shall be construed to authorize the waiver of the applicability of any provision of law with respect to—

"(A) any contract with a prime contractor; or

"(B) any subcontract under a contract with a prime contractor who does not substantially transform the commercial items supplied under the contract.

"(c) COVERED LAW.—A provision of law referred to in subsections (a) and (b) is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

SEC. 8005. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) ARMED SERVICES ACQUISITIONS.—

(1) PROHIBITION ON CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4022(a), is further amended by inserting before the period at the end of the sentence added by section 4022(a) the following: "or to a contract for the acquisition of commercial items".

(2) REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items, as defined in section 2302 of this title.".

(3) PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4022(e), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition

of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(4) PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4022(b), is further amended by adding at the end the following new subsection:

"(d)(1) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(5) CONTRACTOR INVENTORY ACCOUNTING SYSTEMS: STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(A) by inserting "(a) REGULATIONS REQUIRED.—" before "The Secretary of Defense"; and

(B) by adding at the end the following new subsection:

"(b) INAPPLICABILITY TO ACQUISITIONS OF COMMERCIAL ITEMS.—The regulations prescribed pursuant to subsection (a) need not apply to a contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(6) PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES.—Paragraph (4) of section 2408(a) of title 10, United States Code, as added by section 4022(f), is amended—

(A) by inserting after subparagraph (A) the following:

"(B) A contract referred to in such subparagraph that is for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).''; and

(B) by inserting "or (B)" before the period at the end of subparagraph (C).

(b) CIVILIAN AGENCY ACQUISITIONS.—

(1) RESTRICTIONS ON SUBCONTRACTOR SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4023(b), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(2) PROHIBITION ON CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4023(a), is further amended by inserting before the period at the end of the sentence added by section 4023(a) the following: "or to a contract for the acquisition of commercial items".

(c) ACQUISITIONS GENERALLY.—

(1) FEDERAL WATER POLLUTION CONTROL ACT.—Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(2) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—The Contract Work Hours and Safety Standards Act (title I of the Work Hours and Safety Act of 1962 (40 U.S.C. 327 et seq.)) is amended by adding at the end the following new section:

"SEC. 108. (a) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this title.

"(b) In subsection (a), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT REQUIREMENT RELATING TO PROCUREMENT INTEGRITY CERTIFICATIONS.—Section 27(e)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by adding at the end the following new subparagraph:

"(C) This subsection does not apply to a contract for the acquisition of commercial items.".

(4) CERTAIN PROVISIONS OF THE ANTI-KICKBACK ACT OF 1986.—

(A) REQUIREMENT FOR CONTRACT CLAUSE.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57), as amended by section 4024(b), is further amended by inserting before the period at the end of subsection (d) the following: "or to a prime contract for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))).".

(B) INSPECTION AUTHORITY.—Section 8 of such Act (41 U.S.C. 58) is amended by adding at the end the following: "This section does not apply with respect to a prime contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(5) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701(a)(1)), as amended by section 4024(e), is further amended by inserting after the matter inserted by such section 4024(e) the following: ", other than a contract for the procurement of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))),".

(6) CLEAN AIR ACT.—Section 306 of the Clean Air Act (42 U.S.C. 7606) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(7) FLY AMERICAN REQUIREMENTS.—Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1517) is amended by adding at the end the following new subsection:

"(e)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

SEC. 8006. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

(a) OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENT.—Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The requirements of paragraph (3)(B) do not apply to contracts for the purchase of commercial items. The Administrator shall prescribe for such contracts appropriate limits on the applicability of a deadline for submission of bids or proposals that is required by paragraph (1). Such limits shall be incorporated in the Federal Acquisition Regulation. The Federal Acquisition Regulation shall specify a minimum period for submission of a response to a solicitation of offers for a contract for the acquisition of commercial items.".

(b) SAVINGS PROVISION.—The deadlines for submission of offers that are in effect in accordance with section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall continue to apply to contracts for the purchase of commercial items until the limits prescribed pursuant to paragraph (4) of section 18(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)) are incorporated in the Federal Acquisition Regulation, as required by such paragraph.

SEC. 8007. ADVOCATES FOR ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items and other nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 8008. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as amending, modifying, or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(2) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(3) subsections (a) and (d) of section 8 of the Small Business Act (15 U.S.C. 637); or

(4) the Act of June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), popularly referred to as the "Javits-Wagner-O'Day Act".

SEC. 8009. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 9001. COMPTROLLER GENERAL REVIEW OF THE PROVISION OF LEGAL ADVICE FOR INSPECTORS GENERAL.

(a) REVIEW AND REPORT REQUIRED.—Not later than March 1, 1995, the Comptroller General of the United States shall—

(1) conduct a review of the independence of the legal services being provided to Inspectors General appointed under the Inspector General Act of 1978; and

(2) submit to Congress a report on the results of the review.

(b) MATTERS REQUIRED FOR REPORT.—The report shall include the following matters:

(1) With respect to each department or agency of the Federal Government that has an Inspector General appointed in accordance with the Inspector General Act of 1978 whose only or principal source of legal advice is the general counsel or other chief legal officer of the department or agency, an assessment of the extent of the independence of the legal advisors providing advice to the Inspector General.

(2) A comparison of the findings under the assessment referred to in paragraph (1) with findings on the same matters with respect to each Inspector General whose source of legal advice is legal counsel accountable solely to the Inspector General.

SEC. 9002. COST SAVINGS FOR OFFICIAL TRAVEL.

(a) The Administrator of the General Services Administration, no later than 120 days after enactment of this section, shall issue guidelines to ensure that agencies promote, encourage and facilitate the use of frequent traveler programs offered by airlines, hotels and car rental vendors by Federal employees who engage in official air travel, for the purpose of realizing to the maximum extent practicable cost savings for official travel.

(b) Any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel.

(c) Within one year of enactment of this section, the Administrator shall report to the Congress on efforts to promote the use of frequent traveler programs by Federal employees.

SEC. 9003. PROMPT RESOLUTION OF AUDIT RECOMMENDATIONS.

Federal agencies shall resolve or take corrective action on all Office of Inspector General audit report findings within a maximum of six months after their issuance, or, in the case of audits performed by non-Federal auditors, six months after receipt of the report by the Federal Government.

SEC. 9004. UNIFORM SUSPENSION AND DEBARMENT.

(a) Within six months after the date of enactment of this Act, regulations shall be issued providing that provisions for the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order No. 12549, shall have government-wide effect. No agency shall allow a party to participate in any procurement or nonprocurement activity if any agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in a procurement or nonprocurement activity.

(b) The Regulations issued pursuant to subsection (a) shall provide that an agency may grant an exception permitting a debarred, suspended, or otherwise excluded party to participate in procurement activities of that agency to the extent exceptions are authorized under the Federal Acquisition Regulation, or to participate in nonprocurement activities of that agency to the extent exceptions are authorized under regulations issued pursuant to Executive Order No. 12549.

(c) DEFINITIONS.—For the purposes of this part—

(1) "Procurement activities" refers to all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(2) "Nonprocurement activities" refers to all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) "Agency" refers to executive departments and agencies.

TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

SEC. 10001. EFFECTIVE DATES.

(a) EFFECTIVE DATE OF ACT.—Except as otherwise provided in this Act, this Act shall take effect on the date of the enactment of this Act.

(b) EFFECTIVE DATE OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date on which final implementing regulations are prescribed in accordance with section 10002.

SEC. 10002. IMPLEMENTING REGULATIONS.

(a) PROPOSED CHANGES.—Proposed changes to the Federal Acquisition Regulation and such other proposed regulations (or changes to existing regulations) as may be necessary to implement this Act shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.

(d) APPLICABILITY.—(1) The amendments made by this Act shall apply, in the manner prescribed in such final regulations, to any solicitation that is issued or any unsolicited proposal that is received on or after the date described in paragraph (3).

(2) The amendments made by this Act shall apply, to the extent and in the manner prescribed in such final regulations, to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) The date referred to in paragraphs (1) and (2) is the date specified in such regulations, which—

(A) shall not be earlier than the end of the 30-day period that begins on the date the regulations required by subsection (c) are published; and

(B) shall not be later than October 1, 1995.

(e) REQUIREMENT FOR CLARITY.—Officers and employees of the Federal Government who prescribe regulations to implement this Act and the amendments made by this Act shall make every effort practicable to ensure that the regulations are concise and are easily understandable by potential offerors as well as by Government officials.

(f) SAVINGS PROVISION.—Nothing in this Act shall be construed to affect the validity of any action taken or any contract entered into prior to the date specified in the regulations pursuant to subsection (d)(3) except to the extent and in the manner prescribed in such regulations.

SEC. 10003. EVALUATION BY THE COMPTROLLER GENERAL.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than December 1, 1995, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating compliance with the requirements in section 10002, relating to the issuance of implementing regulations.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than December 1, 1996, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act. The report shall include the Comptroller General's evaluation of the extent to which the departments and agencies of the Federal Government, in implementing this Act and the amendments made by this Act, are reducing acquisition management layers and associated costs.

(c) COMMITTEES DESIGNATED TO RECEIVE THE REPORTS.—The Comptroller General shall submit the reports required by this section to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on Small Business on Government Operations of the House of Representatives.

SEC. 10004. DATA COLLECTION THROUGH THE FEDERAL PROCUREMENT DATA SYSTEM.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect from contracts in excess of the simplified acquisition threshold data pertaining to the following matters:

(1) Contract awards made pursuant to competitions conducted pursuant to section 2323 of title 10, United States Code, or section 8(c) of the Small Business Act (15 U.S.C. 637(c)).

(2) Awards to business concerns owned and controlled by women.

(3) Number of offers received in response to a solicitation.

(4) Task order contracts.

(5) Contracts for the acquisition of commercial items.

(b) DEFINITION.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

TITLE XI—WAIVER OF THE APPLICATION OF THE PREVAILING WAGE-SETTING REQUIREMENTS TO VOLUNTEERS

SEC. 11001. SHORT TITLE.

This title may be cited as the "Community Improvement Volunteer Act of 1994".

SEC. 11002. PURPOSE.

It is the purpose of this title to promote and provide more opportunities for people who wish to volunteer their services in the construction, repair or alteration (including painting and decorating) of public buildings and public works funded, in whole or in part, with Federal financial assistance authorized under certain Federal programs that might not otherwise be possible without the use of volunteers, by waiving the application of the otherwise applicable prevailing wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) to such volunteers.

SEC. 11003. WAIVER.

(a) IN GENERAL.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in subsection (d), and the provisions relating to wages, in any federally assisted or insured contract or subcontract for construction, shall not apply to any individual—

(1) who volunteers—

(A) to perform a service for a public or private entity for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered other than expenses, reasonable benefits, or a nominal fee (as defined in subsection (b)), but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from an employer;

(2) whose contribution of service is not for the benefit of any contractor otherwise performing or seeking to perform work on the same project; and

(3) who is not otherwise employed at any time under the federally assisted or insured contract or subcontract involved for construction with respect to the project for which the individual is volunteering.

(b) EXPENSES.—Payments of expenses, reasonable benefits, or a nominal fee may be provided to volunteers described in subsection (a) if the Secretary of Labor determines, after an examination of the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities of the specific federally assisted or insured project, that such payments are appropriate. Subject to such a determination—

(1) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or for the cost or expense of meals and transportation;

(2) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(3) a nominal fee may not be used as a substitute for compensation and may not be tied to productivity.

The decision as to what constitutes a nominal fee for purposes of paragraph (3) shall be made on a case-by-case basis and in the context of the economic realities of the situation involved.

(c) ECONOMIC REALITY.—For purposes of subsection (b), in determining whether an expense, benefit, or fee described in such subsection may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary of Labor shall not approve any such expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

(d) CONTRACTS EXEMPTED.—For purposes of subsection (a), the Acts or provisions described in this subsection are the following:

(1) The Library Services and Construction Act (20 U.S.C. 351 et seq.).

(2) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(3) Section 329 of the Public Health Service Act (42 U.S.C. 254b).

(4) Section 330 of the Public Health Service Act (42 U.S.C. 254c).

SEC. 11004. REPORT.

Not later than December 31, 1997, the Secretary of Labor shall prepare and submit to the appropriate committees of Congress a report that—

(1) identifies and assesses, to the maximum extent practicable—

(A) the projects for which volunteers were permitted to work under this title; and

(B) the number of volunteers permitted to work because of the compliance of entities with the provisions of this title; and

(2) contains recommendations with respect to Acts related to the Davis-Bacon Act that could be addressed to permit volunteer work.

MOTION OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONYERS moves to strike all after the enacting clause of the Senate bill, S. 1587, and to insert in lieu thereof the provisions of H.R. 2238, as passed by the House.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid upon the table.

A similar House bill (H.R. 2238) was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1587.

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

There was no objection.

MARIAN OLDHAM POST OFFICE

Miss COLLINS of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill H.R. 4595, to designate the building located at 4021 Laclede in St. Louis, MO, for the period of time during which it houses operations of the U.S. Postal Service, as the "Marian Oldham Post Office."

The Clerk read as follows:

H.R. 4595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 4021 Laclede in St. Louis, Missouri, shall, for the period of time during which it houses operations of the United States Postal Service, be known and designated as the "Marian Oldham Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the passage of H.R. 4595, which will designate the U.S. Post Office building located at 4021 Laclede in St. Louis, MO, as the "Marian Oldham Post Office".

Mr. Speaker, Ms. Oldham was a pioneer in the civil rights movement. In 1957, she became a founding member of the St. Louis Committee of Racial Equality [CORE]. Her determination for equal rights for all eventually lead her to become the first black woman appointed to the University of Missouri Board of Curators.

I am pleased to join Congressman CLAY and other citizens of St. Louis, in their desire to name the postal facility located at 4021 Laclede in St. Louis, MO, as the "Marian Oldham Post Office". I support the passage of H.R. 4595, and I urge my colleagues to support the measure.

I reserve the balance of my time.

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

Mr. Speaker, I want to take this opportunity to rise in support of H.R. 4595, legislation reported from our Committee on Post Office and Civil Service introduced by our good full committee chairman, Mr. CLAY, to designate a postal facility in St. Louis, MO as the "Marian Oldham Post Office."

Mr. Speaker, the late Ms. Oldham as we have heard was a true pioneer of the civil rights movement, beginning her lifetime of work toward equality in the 1940's in St. Louis. While her physical efforts toward the goal of equality of the races ended with her passing last year, she had the foresight to take the fight into the next century by establishing a scholarship program for African-American students at the University of Missouri at St. Louis.

It can only be hoped that the students benefiting from that fund through their education will continue to strive toward the goals she set over 50 years ago, and I would hope that with the support of my colleagues we will be able to honor her memory and her life by designating this postal facility as the Marian Oldham Post Office.

Mr. CLAY. Mr. Speaker, Marian Oldham was a pioneer in the civil rights movement. Her activism began in the 1940's when she participated in sit-ins at the Stix, Baer & Fuller store in downtown St. Louis. In 1957 she became a founding member of the St. Louis Committee of Racial Equality [CORE]. In 1963 she was arrested and sent to jail for blocking the doors of Jefferson Bank & Trust. That bank had just fired the only two black clerks ever hired by a bank in St. Louis. She spent 11 days in jail, and on her release, she held prayer vigils outside the jail for those protesters who had yet to be released.

Her determination for equal rights for all eventually lead her to become the first black woman appointed to the University of Missouri Board of Curators, directors of the system that previously had rejected her application for admission because she was black. She founded a scholarship program for black students at the University of Missouri-St. Louis.

She brought that same determination to her students. The students at Washington Elementary School learned more than language, math, and history. Marian Oldham taught them how to live—how to enjoy life, and how to improve life. Her life touched the lives of many and made a difference in each. I was honored to be one whose life she touched and am pleased to honor her by naming the Post Office on Laclede in her memory.

I urge my colleagues to support H.R. 4595.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan [Miss COLLINS] that the House suspend the rules and pass the bill, H.R. 4595.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JOHN L. LAWLER, JR. POST OFFICE

Miss COLLINS of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4596) to designate the building located at 2200 North Highway 67 in Florissant, MO, for the period of time during which it houses operations of the U.S. Postal Service, as the "John L. Lawler, Jr. Post Office."

The Clerk read as follows:

H.R. 4596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 2200 North Highway 67 in Florissant, Missouri, shall, for the period of time during which it houses operations of the United States Postal Service, be known and designated as the "John L. Lawler, Jr. Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall, with respect to the period referred to in section 1, be deemed to be a reference to the John L. Lawler, Jr. Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4596 will designate the U.S. Post Office building located at 2200 North Highway 67 in Florissant, MO, as the "John L. Lawler, Jr. Post Office".

Mr. Speaker, Mr. John L. Lawler, Jr. was a long standing business manager for Pipe Fitters Local 562, in St. Louis. He also was an alderman for the city of St. Louis and later became the Democratic committeeman for Spanish Lake Township in St. Louis County.

I am pleased to join Congressman CLAY and other citizens of St. Louis, in their desire to name the postal facility located at 2200 North Highway 67 in Florissant, MO, as the "John L. Lawler, Jr. Post Office".

I support the passage of H.R. 4596, and urge my colleagues to support the measure.

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

□ 1340

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

Mr. Speaker, I rise today to express my support for H.R. 4596, legislation reported from our Committee on Post Office and Civil Service and introduced by our full committee chairman, Mr. CLAY, to designate a postal facility in Florissant, MO, as the "John L. Lawler, Jr. Post Office."

The late Mr. Lawler was a dedicated trade unionist who at a young age rose to become the business manager of Pipe Fitters Local 562 in St. Louis. Mr. Lawler also served his country by becoming an alderman in the second ward of the city of St. Louis. Mr. Lawler's short life, which ended in 1985, was exemplary. He reached out to help others in his community find better opportunities through employment assistance and other local charities.

Mr. Speaker, I believe it is a fitting tribute to his memory and life to designate this facility as the John L. Lawler, Jr. Post Office and would urge my colleagues to support its passage.

Mr. CLAY. Mr. Speaker, John L. Lawler, Jr., was a journeyman pipefitter for many years and eventually became the business manager for Pipe Fitters Local 562, in St. Louis. John was involved with the union for his entire life. He was a dedicated trade unionist who learned the virtues of collective bargaining from his father who was a cofounder of local 562.

John was not only active in the labor movement. He was an alderman for the 2d ward in the city of St. Louis, Democratic committeeman for Spanish Lake Township in St. Louis County and chairman, St. Louis County Democratic central committee. He was a civic and political leader in Spanish Lake Township. He moved to provide greater opportunities for employment for the citizens of St. Louis area. He was active in the community, always looking to help others. He helped many, many charities in St. Louis to improve the lives of those who were less fortunate.

I was a life long friend of John's father and was a friend of John's for his entire life. I am pleased to name the Post Office in Florissant, Missouri, as the "John L. Lawler, Jr., Post Office" in honor of my friend and associate.

I urge my colleagues to support H.R. 4596.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman form Michigan [Miss COLLINS] that the House suspend the rules and pass the bill, H.R. 4596.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

POSTAL INSPECTION SERVICE AND INSPECTOR GENERAL ACT

Miss COLLINS of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4400). To amend title 39, United States Code, to present the use of paid confidential informants by the U.S. Postal Service in certain narcotics investigations; to require that the appointment of the inspector general of the U.S. Postal Service be made by the President, with the advice and consent of the Senate; and for other purposes, as amended.

The Clerk read as follows:

H.R. 4400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postal Inspection Service and Inspector General Act".

SEC. 2. RESTRICTION ON THE USE OF PAID CONFIDENTIAL INFORMANTS BY THE POSTAL SERVICE.

(a) CONFIDENTIAL INFORMANTS.—

(1) RESTRICTION.—Section 404 of title 39, United States Code, is amended by adding at the end the following:

(c)(1) The Postal Service may not retain the services of a paid confidential informant for purposes of any investigation concerning the possible violation of any law relating to controlled substances, unless the unlawful use of the mails is involved.

"(2) The Postal Service shall render a semiannual report to the Congress concerning any investigation—

"(A) in which the Postal Service retains the services of a paid confidential informant; and

"(B) which results in the arrest of 1 or more individuals for violating any law relating to controlled substances.

"(3) For the purpose of this subsection—

"(A) the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Drug Abuse Prevention and Control Act of 1970; and

"(B) a confidential informant shall be considered to be 'paid' if such informant receives, or is to receive, a monetary or nonmonetary benefit (including any forbearance from a civil or criminal action) for the services involved.".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply with respect to any investigation commencing on or after the date of the enactment of this Act.

(b) OFFICERS.—

(1) IN GENERAL.—Section 204 of title 39, United States Code, is amended—

(A) by amending the section heading to read as follows:

"§ 204. Assistant Postmasters General; General Counsel; Judicial Officer; Chief Postal Inspector";

(B) in the first sentence by striking "and a Judicial Officer." and inserting "a Judicial Officer, and a Chief Postal Inspector."; and

(C) in the second sentence by striking "and the Judicial Officer" and inserting "the Judicial Officer, and the Chief Postal Inspector".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 2 of title 39, United States Code, is amended by striking the item relating to section 204 and inserting the following:

"204. Assistant Postmasters General; General Counsel; Judicial Officer; Chief Postal Inspector.".

SEC. 3. INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.

(a) DEFINITIONS.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by inserting "the Postmaster General;" after "the Attorney General;"; and

(2) in paragraph (2) by inserting "the United States Postal Service," after "Treasury;".

(b) TRANSFER OF FUNCTIONS.—Section 9(a) of the Inspector General Act of 1978, as amended by section 203(g)(3)(A) of the National and Community Service Trust Act of 1933 (Public Law 103-82; 107 Stat. 890), is amended—

(1) in paragraph (1)—

(A) in subparagraph (U) by striking "and" after the semicolon; and

(B) by adding at the end the following:

"(W) of the United States Postal Service, that portion of the Postal Inspection Service that is engaged in internal audit and program review activities; and"; and

(2) in paragraph (2) by inserting "(or, in the case of the United States Postal Service, the Postmaster General, in consultation with the Board of Governors)" after "head of the establishment involved".

(c) SPECIAL PROVISIONS.—The Inspector General Act of 1978 is amended—

(1) by redesignating the first section designated as section 8G as section 8H;

(2) by redesignating the second section designated as section 8G as section 8I; and

(3) by inserting after section 8F the following:

"SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

"SEC. 8G. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed thereby. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

"(b) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RELATING TO THE INSPECTOR GENERAL ACT OF 1978.—Section 8H of the Inspector General Act of 1978 (as so redesignated by subsection (c)(1)) is amended—

(A) in subsection (a)(2) by striking "Tennessee Valley Authority," and all that follows through the semicolon and inserting "Tennessee Valley Authority, and the United States International Trade Commission;"; and

(B)(i) by striking subsection (f), and redesignating subsections (g) and (h) as subsections (f) and (g), respectively;

(ii) in paragraphs (3) and (4) of subsection (a) by striking "(h)(1)" and inserting "(g)(1)"; and

(iii) in subsection (c) by striking "Except as provided under subsection (f) of this section, the" and inserting "The".

(2) RELATING TO TITLE 39, UNITED STATES CODE.—Section 410(b) of title 39, United States Code, is amended—

(A) by striking "and" at the end of paragraph (9); and

(B) by amending paragraph (10) to read as follows:

"(10) the Inspector General Act of 1978; and".

(e) EFFECTIVE DATE; INTERIM SERVICE.—

(1) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the expiration of the 3-month period beginning on the date of the enactment of this Act.

(2) INTERIM SERVICE.—The individual serving as Inspector General of the United States Postal Service on the day before this section takes effect may continue to serve in that capacity until—

(A) a successor has taken office, or

(B) such individual ceases to be the Chief Postal Inspector of the United States Postal Service.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4400 creates an independent inspector general for the Postal Service to be appointed by the President, with the advice and consent of the Senate. Currently, the chief postal inspector is the inspector general for the Postal Service and is appointed by the Postmaster General.

Mr. Speaker, H.R. 4400 will also limit the U.S. Postal Service from hiring paid confidential informants during the course of investigations relating to controlled substances.

Finally, Mr. Speaker, H.R. 4400 has received the support and endorsement of several major mailers and Postal Unions such as the National Postal Mail Handlers Union, Alliance of Nonprofit Mailers and Advertising Mail Marketing Association.

Therefore, Mr. Speaker, I enthusiastically urge my colleagues to support the measure.

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

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

Mr. Speaker, I rise today in support of H.R. 4400, the Postal Inspection Service and Inspector General Act, and I want to commend Chairman CLAY for bringing this important legislation to the floor.

Since the Postal Service continues to be plagued by a variety of problems, it is of vital interest to postal management, employees and customers alike that we establish an independent inspector general for the Postal Service, as this bill does. Only with an independent IG in place, will sound, independent audits and reviews of Postal Service programs be possible.

Clearly, the chief postal inspector, who currently serves as IG and has broad responsibility for the security of postal personnel and facilities and the investigation of postal crimes, has been hard pressed to review his own organization objectively. And the lack of independent review coming from the Postal Inspection Service has proven costly to mailers, postal employees, and the public.

Furthermore, this bill prevents further travesties of justice like those the committee learned of in Cleveland, West Palm Beach, Los Angeles, Minneapolis, and elsewhere.

By preventing the Postal Service from using paid confidential informants in drug investigations, this legislation should ensure that no more innocent postal employees are entrapped by overly zealous postal inspectors.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I very much thank the chairwoman of the subcommittee for yielding time to me and congratulate her on her work in bringing forward this very significant reform.

Mr. Speaker, the Post Office and Civil Service Committee discovered through its own investigations and hearings that the Postal Service was retaining crooks who remained crooks to find crooks. Even without these investigations, Mr. Speaker, the Postal Service should not have been exempt from the requirement to have an independent inspector general like every other federally funded agency. Perhaps because of the Postal Service's special status, it fell between the cracks. Those cracks have become an embarrassingly large hole.

The Postal Service has a postal inspector. His job is to secure the mail and the personnel who deliver the mail. The job of an inspector general is to investigate the internal operations of an agency itself. Otherwise, the agency is left to self-policing, and we have learned long ago that that is insufficient.

Matters like narcotics enforcement, where revelations came forward in our hearings, are too important to be left to amateurs and crooks.

Federal law enforcement, of course, generally has a good reputation for professionalism. Who would have thought that within any Federal agency we could have had the notion of "dollars for collars" or convicted felons as confidential informants. No wonder the Postal Service lacks professionalism, however. It had no consultation with professional law enforcement agencies like the FBI, the Justice Department, and many others. No training was given to personnel in professional law enforcement work. The Postal Service was out there doing its thing on a lark on its own. The Service's activities became more than embarrassing; they destroyed lives, and we heard about those lives in graphic detail in the committee.

The Postal Service fought the rehiring of people who were clearly innocent. Ultimately, the crooks outsmarted the Postal Service. They implicated innocent employees and pocketed the money. There were some on drugs during the stings. One asked a postal employee to buy him drugs as a favor.

It should not take evidence of renegade operations or bogus criminal charges or dismissal of innocent employees to get an inspector general. An independent inspector general is now considered as vital to a Federal agency as the agency head herself. Lacking an inspector general, the Postal Service got stung by its own sting.

It is too late to undo the damage done to many, but we are in time to prevent more damage to others.

I strongly support the passage of H.R. 4400 and ask my colleagues to do the same.

Miss COLLINS of Michigan. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. STOKES].

□ 1350

Mr. STOKES. Mr. Speaker, I thank the distinguished gentlewoman from Michigan for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4400, the Postal Inspection Service and Inspector General Act. This measure will prevent the use of paid confidential informants by the U.S. Postal Service in certain narcotics investigations and will require the appointment of the inspector general of the U.S. Postal Service. As an original cosponsor of H.R. 4400 I want to take this opportunity to commend my distinguished colleague, the gentleman from Missouri, Chairman CLAY, for his leadership in crafting this intelligent and thoughtful legislation, and expeditiously bringing it before the House for consideration.

Mr. Speaker, I would like to take a moment to share how my office became involved in this issue initially. Last year my office was approached individually by several Postal employees who wanted me to inquire into their removal from the Postal Service. In each case, these individuals had been removed for alleged misconduct relating to illegal drug activity.

After talking amongst themselves, and realizing they all had the same problem and all has the same information used against them provided by the same U.S. Government paid informant, a group of these same individuals came to my office wanting, to file a class action suit and seeking my advice on the matter. Upon my direction, my staff began to collect statements from each of these individuals. Upon receipt of these statements I forwarded these documents to our colleague, and chairman of the Post Office and Civil Service Committee, Mr. CLAY, who has congressional oversight over such matters. What we learned, as the sordid details of the illegal sting operation have come out, has the distasteful makings of some script that one might expect to see utilized for television or a movie: The Postal inspectors hire informants to solicit supposed drug trafficking suspects; the informants run a scam on the Postal inspectors by implicating innocent employees, and the Government pays huge sums of money for bogus information.

It is a sad commentary that this matter is not only a real life situation, but that it involves the U.S. Post Office—a Federal Government entity and an institution supported by the American taxpayers. Moreover, the entire operation was conducted with the complete knowledge and control of top Post Office officials. In fact, as more and more information emerged, it became clear that this type of activity is not the first instance in which such an ill-conceived operation was carried out.

In addition, Mr. Speaker, the real travesty of this entire case is that this illegal and ill-advised operation has damaged the characters and reputations of many innocent individuals. For many of these persons, jobs were lost. As a result of this deprivation of income, private property and investments such as homes and automobiles were lost as well. Moreover, entire families have been placed under unnecessary and undue stress and censure. All apparently because of some conviction hungry and vindictive Postal inspectors. The events uncovered in this case show a complete disregard for due process.

Mr. Speaker, I was also disturbed to discover that this case has some serious racial implications. It became clear that all of the affected Postal employees whose rights had been compromised were African-American. Furthermore, had it not been for the persistence of many on the Post Office and Civil Service Committee, I am almost afraid to guess how long it would have been—if at all—before these activities were uncovered. I was also shocked to discover that even after the involvement of my office and the Post Office and Civil Service Committee, there was still a lack of cooperation and willingness by the Postal Inspection Service to provide complete and accurate facts.

That is why this bill being considered today, H.R. 4400, the Postal Inspection Service and Inspector General Act is an essential piece of legislation. With its enactment, the abuses I have already discussed will be prevented. Illegal and racially motivated sting operations conducted by federal agencies cannot be tolerated.

Mr. Speaker, in closing, I want to recognize all of those individuals who had the courage to approach me in the first place and those countless other innocent people who may have also been persecuted unfairly. H.R. 4400 is a fair and just bill which will help protect other citizens from unfair prosecution. I strongly urge all my colleagues to take a stand for preventing the egregious abuse of Government power, and vote for passage of H.R. 4400.

Mr. CLAY. Mr. Speaker, H.R. 4400, the Postal Inspection Service and Inspector General Act's primary purpose is the establishment of an independent inspector general for the Postal Service. Today, the Postal Service lacks such an independent inspector general. Currently, the chief inspector of the Postal Service, its chief law enforcement officer whose primary responsibility is security of personnel, facilities and the investigation of postal crimes, is given the additional role of performing inspector general functions. Although he

performs inspector general duties he is the chief inspector not an inspector general. As a result of this unique situation, this agency's investigative responsibility is much broader than that of any other person who is an inspector general.

An independent IG is mandated to conduct independent audits and review. There is no independent review of Postal Service programs. The Postal Service reviews itself. An independent IG at the Postal Service would have found the systematic problems with the inspection service's drug enforcement program where felons paid by the inspection service have been allowed to ruin the lives of innocent postal employees for the past 10 years. The problems with the Postal Service's contracting procedures may have been uncovered by an independent IG. The Postal Service may have avoided an injunction on the billion dollar air contract. It may have avoided the embarrassment of having paid an outrageous $7.5 million profit to a St. Louis real estate company which eventually was convicted of fraud in that transaction. The Postal Service may never have purchased a virtually useless and expensive piece of land in Queens, NY, if an independent IG had reviewed the procurement process. In Chicago, an IG could have prevented the disastrous service failure 10 years earlier. He or she could have prevented a single manager from requesting and approving a $200,000 private office renovation.

An independent IG would have advised the Postmaster General and the Board of Governors that its automation program wasn't being properly implemented nor producing the expected savings. An independent IG may have determined that the PMG's restructuring would harm the automation program. Lack of independent review has proven costly to Mailers and Postal employees.

H.R. 4400 prevents the Postal Service from using paid confidential informants in drug investigations. The committee found that Postal inspectors are not equipped to oversee these investigations. Experts at DEA should run these investigations, if they are needed at all.

The Postal Service is the second largest agency in the Government. The only one without an IG. Its management, employees and customers deserve an independent review of its programs. The current Inspection Service framework cannot provide that review because it is not independent of management. This bill provides that review in the Postal Service just like every other Federal agency. Postal Service management will have greater accountability under H.R. 4400 which will benefit the Postal Service and the public it serves.

I urge my colleagues to support H.R. 4400.

Mr. SAWYER. Mr. Speaker, the House considered and passed H.R. 4400, the Postal Inspection Service and Inspector General Act. I want to commend Congressman BILL CLAY, chairman of the Committee on Post Office and Civil Service, for introducing this important legislation and moving it in an expeditious manner.

The Committee on Post Office and Civil Service conducted a lengthy investigation and held several hearings to review the activities of the Postal Inspection Service. The information uncovered during that process was disturbing, to say the least.

Over the years, the Postal Inspection Service spent a considerable amount of time and financial resources in its efforts to eliminate substance abuse in the postal workplace. I do not quarrel with the Inspection Service's goal. However, the operation, known as collars for dollars, was a disaster of execution from its inception. Postal Inspectors relied heavily on information provided by paid confidential informants, many of whom had questionable reputations.

Postal Service officials told the committee that this practice has ended. However, enactment of H.R. 4400 will ensure that future investigations are carried out in a responsible manner by individuals who are properly trained to conduct undercover drug stings.

H.R. 4400 also establishes an independent inspector general [IG] for the Postal Service. Currently, the Chief Postal Inspector is vested with this authority, thus allowing the Postal Inspection Service to operate without adequate, objective oversight. An independent IG will provide the Board of Governors and the Postmaster General with unbiased assessments of the operations of the Postal Service, including the Inspection Service.

As chairman of the Subcommittee on Census, Statistics and Postal Personnel, which has oversight responsibility for matters affecting the postal work force, I strongly supported passage of H.R. 4400. The legislation will ensure that unchecked drug stings, which disrupted the lives of many innocent postal employees, do not recur. At the same time, it will help restore the damaged reputation of the Postal Inspection Service.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan [Miss COLLINS] that the House suspend the rules and pass the bill, H.R. 4400, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Miss COLLINS of Michigan. Mr. Speaker, I ask unanimous consent all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bills, H.R. 4595, H.R. 4596, and H.R. 4400.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3567. An act to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1233. An act to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes;

S.J. Res. 153. Joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week";

S.J. Res. 172. Joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II";

S.J. Res. 178. Joint resolution to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week"; and

S.J. Res. 187. Joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance."

RICHARD BOLLING FEDERAL BUILDING

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2559) to designate the Federal building located at 601 East 12th Street in Kansas City, MO, as the "Richard Bolling Federal Building."

The Clerk read as follows:

Senate amendments:

Page 2, after line 5, insert:

SEC. 3. DESIGNATION.

The United States Courthouse located at North and Locust Streets in Kansas City, Missouri, shall be known and designated as the "Charles Evans Whittaker United States Courthouse".

SEC. 4. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Charles Evans Whittaker United States Courthouse".

The SPEAKER pro tempore (Mr. COLEMAN). Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. Speaker, on November 15, 1993, the House passed H.R. 2559, a bill to honor our esteemed, distinguished colleague, Richard Bolling, by designating the Federal building at 601 East 12th Street in Kansas City, MO, as the "Richard Bolling Federal Building." As we all know, Richard Bolling served in

Congress for 34 years—34 years of notable, enlightened participation and leadership in public service. In addition to his intelligence and insights into reforming the legislative and budgetary operations of the House, he was instrumental in the successful fight for passage of the 1957 civil rights legislation. In addition, Congressman Bolling chaired the Rules Committee, and the Joint Economic Committee, and was a member of the Democratic Steering and Policy Committee.

I am very proud to be associated with this bill. The Senate amendment, to which the committee has no objection, would designate the U.S. courthouse located at Ninth and Locust Streets in Kansas City, MO, as the "Charles Evans Whittaker United States Courthouse." Judge Whittaker served as president of the Missouri Bar Association, and was a judge for the U.S. District Court for the Western District from 1954 to 1956. In 1957, President Eisenhower nominated Judge Whittaker for the Supreme Court. He resigned from the Court in 1962.

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

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

Mr. Speaker, at the outset I would like to say it has been a pleasure to work with Chairman TRAFICANT on the naming bills before us today.

The gentleman from Ohio, Chairman TRAFICANT, is a good friend and an outstanding chairman of our Public Building and Grounds Subcommittee.

Mr. Speaker, I rise in support of H.R. 2559, as amended, an act to name the Federal building in Kansas City, MO, as the "Richard Bolling Federal Building, and the U.S. courthouse to be constructed in Kansas City, MO, as the "Charles Evans Whittaker United States Courthouse."

On September 13, 1993, the House of Representatives passed H.R. 2559, to name the existing Federal building in honor of our distinguished former colleague, Mr. Bolling, who served in this body with distinction from 1949 until his retirement in 1982. During his service, Mr. Bolling was chairman of the Rules Committee, chairman of the Joint Economic Committee, and authored serveral books on Congress and the congressional process.

On March 24, 1994, the other body passed H.R. 2559 with an amendment to name the U.S. Courthouse to be built in Kansas City, MO, as the "Charles Evans Whittaker United States Courthouse." Charles Evans Whittaker was a respected jurist who practiced law for 30 years in Kansas City, and in 1954 was named by President Eisenhower to the U.S. District Court, Western District of Missouri. In 1957, the President named Judge Whittaker as Associate Justice of the Supreme Court, where he served until retiring in 1961 for health reasons. Following retirement, Justice Whittaker served as legal counsel to General Motors, and in 1965 drafted a Code of Senatorial Ethics for the U.S. Senate.

I support the amendment to the original bill and I urge enactment.

Mr. WHEAT. Mr. Speaker, I rise today to support H.R. 2559, a bill to name two Federal installations in downtown Kansas City, MO. The Federal building in that city will be named after my friend and mentor, an esteemed late Member of this House, Richard Bolling.

Mr. Speaker, it is fitting that we should consider this legislation in the midst of remembrances for the 50th Anniversary of World War II. Dick Bolling fought in that war, and he represents the very best of that remarkable generation that battled economic depression, journeyed to foreign fields to secure the freedom of humanity, and came home to try and build a society based on lasting peace and prosperity, with equal opportunity for all.

The ideals of democracy and freedom that Dick Bolling defended so fiercely in these halls he first fought for valiantly in the Pacific theater of World War II. He enlisted as a private, and left as a lieutenant-colonel with a Bronze Star for heroism. Soon after, Dick embarked on a congressional career that was marked by tenacity, compassion, hard work, and an abiding intellectual interest in the inner workings of the Congress.

Dick Bolling was a force in passing the first civil rights law for African-Americans since Reconstruction, and his was a clear voice for opening the opportunities of American society to all citizens. Wherever there was a need for reform and fairness, Dick Bolling was there, lending his considerable oratorical and intellectual weight to the cause of progress.

When that fight for change came to Congress, an institution Dick revered, he did not hesitate to press for monumental reforms in rules and procedures that would make the Congress more responsive to the needs of the people.

Perhaps the greatest tribute to Dick Bolling, Mr. Speaker, is that whenever his name is mentioned in these halls, a great number of Members who have achieved positions of leadership and influence in Congress happily acknowledge his counsel and support in the early days of their careers.

They remember sitting on the floor of the House, listening as Dick shared his vast knowledge of the rules and history of the people's House. They remember sage advice that changed lives and careers, and they remember his constant, personal example of courage, intelligence, and devotion to the power of principle.

I ask this House to adopt this bill, and honor this Kansas Citian who served his Nation with distinction. I ask my colleagues to honor our old friend Dick Bolling and create a lasting tribute to his service to his community, State, and Nation in the form of the Richard Bolling Federal Building. I ask for your support for H.R. 2559.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 2559, a bill to designate the Federal building located at 601 East 12th Street in Kansas City, MO as the "Richard Bolling Federal Building" and to designate the U.S. courthouse located at Ninth and Locust Street also in Kansas City, MO as the "Charles Evans Whittaker United States Courthouse."

At the outset, I want to pay special recognition to the distinguished gentleman from Missouri, Congressman WHEAT for sponsoring this important legislation. I also want to comment Congressman TRAFICANT, chairman of our Subcommittee on Public Buildings and Grounds, and Congressman DUNCAN, ranking Republican member of the subcommittee, for their efforts on this important bill.

Mr. Speaker, H.R. 2559, which would name a Federal building in Kansas City, MO after Richard Bolling, already passed the House on November 15, 1993. Subsequently, it was amended by the Senate to include the naming of another building in Kansas City after Charles Evans Whittaker. The purpose of our action today is to concur in the Senate amendment.

Elected to Congress in 1948, Congressman Bolling served the people of Kansas City, MO for 17 consecutive terms, where he used his indepth knowledge of House rules to help achieve passage of such landmark legislation as the 1964 civil rights bill.

Moreover, as a member of the Rules Committee for 27 years and its chair for 4 years, Congressman Bolling championed national health insurance and congressional reform long before they became the important issues of today. The author of two books on House procedures, Congressman Bolling also chaired the bipartisan Congressional Reform Committee of 1973. In 1975, my first year in Congress, we instituted many of that committee's reform proposals realigning committee jurisdictions and designing the current budget process.

Mr. Speaker, as I mentioned, H.R. 2559 would also designate the U.S. courthouse located at Ninth and Locust Street in Kansas City, MO, as the "Charles Evans Whittaker United States Courthouse."

Supreme Court Justice Whittaker was born in 1901, on a modest farm in Troy, KS. He financed his education at the University of Kansas City Law School by selling the pelts of animals he had trapped on the Kansas plains, Although he had humble beginnings, Justice Whittaker, rose to a distinguished career as a jurist. He served as a Federal judge for the U.S. District Court for the Western District of Missouri from 1954 to 1956 and from 1956 to 1957 he served on the Eighth Circuit Court of Appeals. In March 1957, President Eisenhower nominated Justice Whittaker to the U.S. Supreme Court. He served until his retirement in March 1962 and was replaced by Justice Byron White. While in retirement, Justice Whittaker was asked by the Senate Committee on Standards and Conduct to help device a code of senatorial ethics.

Mr. Speaker, based on the two outstanding contributions of these two individuals to their professions, Kansas City and the Nation, it is only fitting and proper to name the Federal buildings in Kansas City, MO, as the "Richard Bolling Federal Building" and the "Charles Evans Whittaker United States Courthouse."

I urge concurrence in the Senate amendment and passage of this bill.

Mr. GEPHARDT. Mr. Speaker, I rise in support of H.R. 2559. This legislation, sponsored

by my colleague, ALAN WHEAT, designates the Federal building in Kansas City as the Richard Bolling Federal Building.

In his 34 years of service to the House of Representatives, Richard Bolling served this body with the passion and dedication that we have come to identify in all of our Nation's great leaders. He was a gifted student of history, a wise instructor of the legislative process, and a good friend to many of us.

Dick Bolling began his public service as an Army private in World War II. His loyalty to our country was recognized with a Legion of Merit award and a Bronze Star for his courageous service in the Pacific theater. After the war, he accepted a position as a veterans adviser with the University of Missouri at Kansas City.

Throughout his service in this body, Dick never lost sight of his foremost responsibility in Congress—his constituents. He revolutionalized constituent accessibility when he established one of the first district offices in the Nation. His dedication to his constituents continued when he became one of the first to use a mobile congressional office.

As a Representative of the Fifth District of Missouri, Dick demonstrated a firm and sincere passion for social justice. In 1957, he proved instrumental in the passage of a landmark piece of civil rights legislation—the first such legislation since Reconstruction. Seven years later, Dick played an equally influential role in passing the legendary Civil Rights Act of 1964.

Dick returned to the Hill to become an informal adviser of mine in 1989. He was a good friend and a devoted confidant. All who knew Dick respected his integrity and precise judgment.

Mr. Speaker, we continue to miss his presence on this floor, and we are grateful for the legend he has left behind.

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

Mr. TRAFICANT. Mr. Speaker, I concur with the gentleman from Tennessee [Mr. DUNCAN].

Mr. Speaker, I ask that we adopt the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and concur in the Senate amendments to H.R. 2559.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to H.R. 2559.

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

There was no objection.

JAMIE L. WHITTEN FEDERAL BUILDING

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4576) to designate the Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue SW, in Washington, DC, as the "Jamie L. Whitten Federal Building".

The Clerk read as follows:

H.R. 4576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, shall be known and designated as the "Jamie L. Whitten Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Jamie L. Whitten Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding me this time, as well as the gentleman from Tennessee [Mr. DUNCAN], and thank them for bringing this bill to the floor.

Mr. Speaker, I rise in strong support of this bill to name the Department of Agriculture building at the corner of 14th Street and Independence Avenue in Washington in honor of our colleague, JAMIE WHITTEN.

It is very fitting that we pay tribute to Mr. WHITTEN in this manner, given his lifetime of work on agricultural issues and programs in this country. He was chairman of the House appropriations Subcommittee on Agriculture for more than 40 years. From that position, he quickly became the leader in shaping our national agricultural policies.

He helped develop and fund farm programs that worked. They improved the standard of living in our farm communities and made the American farmer the most productive in the world. In conjunction with that, Mr. Speaker, he placed a high priority on research programs that have brought innovation and improvement to all sectors of the agricultural economy.

Those research efforts have enabled farmers to grow better crops and manage farm operations more efficiently, and these research programs are ongoing. They will help American agriculture meet the challenges of the 21st century.

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As we all know, the gentleman from Mississippi, Mr. JAMIE WHITTEN, is the dean of the House and, of course, the dean of our Mississippi delegation. As Mississippians, we are all very proud of his record of service in the Congress, both in leadership and in length of service. He is the longest serving Member of Congress in the history of our country and it is a record that we all agree surely will never be broken. All during that time, the gentleman from Mississippi, Mr. JAMIE WHITTEN, has served every day with great honor and integrity, and with an eye toward helping improve the lives of the people he represented. Not only did he represented the people of his district in Mississippi but he tried to work and help all the people of this country.

Mr. Speaker, I think this is great legislation. I certainly support it.

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

Mr. Speaker, I rise in support of H.R. 4576, a bill to designate the Department of Agriculture Headquarters building, located at the intersection of 14th and Independence Avenue, Washington, DC, as the "Jamie Whitten Federal Building." This tribute is fitting for the dean of the House of Representatives, who is serving in his 27th Congress as a Representative from the first district of Mississippi, a career that commenced in 1941, and continues to this day. During his career, our colleague, Mr. WHITTEN, served as chairman of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee of the Committee on Appropriations, as well as chairman of the full Committee on Appropriations. His distinguished career has spanned 11 Presidents, and his tenure in the House of Representatives is longer than any Member of the House. During his career, he has helped many Members in countless numbers of ways, and he has also been very loyal to the people of north Mississippi, as they have been to him.

It is fitting and appropriate that we name the Headquarters of the Department of Agriculture in honor of Congressman JAMIE WHITTEN.

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

Mr. TRAFICANT. Mr. Speaker, I yield whatever time he may consume to the distinguished gentleman from Minnesota [Mr. PENNY], who has been a champion of looking at appropriation spending and a good friend of Chairman WHITTEN.

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

Mr. Speaker, I rise in support of this legislation. As has been stated by other speakers here this afternoon, there can be no more fitting choice than to name the Department of Agriculture building after our esteemed colleague, the gentleman from Mississippi, JAMIE L. WHITTEN. The gentleman from Mississippi [Mr. WHITTEN] has served here now, I think, in his 54th year, and he has served with great distinction. From his very first years in Congress, he has been deeply involved with agricultural appropriations measures, taking a direct and continuing interest in the welfare and the benefit of America's agricultural industry, our family farmers, and our food and fiber needs.

The gentleman from Mississippi [Mr. WHITTEN] continues in that interest and has provided tremendous leadership to this Nation in that regard. We are all in his debt for his many years of leadership on agricultural issues. We feel it only fitting that Americans on into the future are reminded of his contribution by naming this particular building in his honor.

Again, I offer my support for the legislation under consideration here today.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I appreciate the gentleman yielding me the time.

Mr. Speaker, I rise in behalf of the measure naming a Federal building for the gentleman from Mississippi, Mr. JAMIE WHITTEN, our friend and longtime colleague. As the gentleman from Minnesota has said, the gentleman from Mississippi [Mr. WHITTEN] has been one of the great leaders of this body for a very long time, and he has really been the institutional history of the House of Representatives.

When I see JAMIE, of course, sitting in his familiar chair in the corner and know that he was here in this Chamber when President Franklin Roosevelt indicated, after the bombing of Pearl Harbor, that it was time for this country to go to war, that, of course, is a pretty large segment of American history which one individual in the person of the gentleman from Mississippi, Mr. JAMIE WHITTEN, has actually witnessed and taken part in.

I think it is very fitting and appropriate that there be physical and tangible evidence of his kind of leadership and his sort of devotion and that obviously would take the form of a building bearing his name.

Mr. Speaker, I want to thank the gentleman from Ohio, the chairman of the committee, for having arranged this measure and to indicate to him I think this building will always remind all of us who have ever served with the gentleman from Mississippi [Mr. WHITTEN], of just what a gentleman he is and has been and what a leader he is and has been in the Congress of the United States.

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

Mr. Speaker, this bill really needs no further explanation. The gentleman from Illinois, Mr. RICHARD DURBIN, the chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Committee on Appropriations is also responsible. I know he would like to be here today and offer his remarks.

Mr. Speaker, Chairman WHITTEN is and was the Secretary of Agriculture for this country. In his 27th term he sits down there in his little corner as the gentleman from Kentucky, Chairman MAZZOLI, mentioned, seated with me.

Mr. Speaker, I was born about the time that Chairman WHITTEN entered this body and it is a different place because of he, a fine public servant, prodigious lawmaker, a learned and thoughtful scholar and a true gentleman if we have ever come to know one.

His contributions to the Congress of the United States are remarkable, numerous, enduring and immeasurable. He treated everybody with respect, freshmen to seniors he included, he did not exclude, and I think that is the stamp of a great chairman. He earned the trust of the citizens of his own State, Mississippi, at the young age of 23 when he was elected district attorney, and I had so many good talks with him. As the gentleman from Tennessee [Mr. DUNCAN] knows, the judges and the prosecutors always want to talk with the sheriff, and I think his early career is remarkable. His constitutents' faith in him continued through 27 terms in the U.S. Congress, ladies and gentleman. After serving with distinction as the chairman of the powerful Committee on Appropriations from 1979 to 1992, he has continued his dedication to that committee by becoming the senior Member and the dean of the House of Representatives.

Mr. Speaker, I want to enthusiastically endorse and support this bill. It is an honor to participate in the naming of the Department of Agriculture building on behalf of this great Member of the Congress of the United States. It truly honors one of our greatest, greatest Members.

Mr. CLEMENT. Mr. Speaker, I join my colleagues in supporting this measure to name a Federal building here in Washington after our colleague, JAMIE L. WHITTEN of Mississippi.

Few individuals who have served here in the Congress leave a legacy as distinguished as Chairman WHITTEN. During his more than 52 years here in the House, he shaped policies great and small.

As the longtime chairman of the Agriculture Appropriations Subcommittee, he ensured investment in the family farm and in agricultural research so our Nation could reap the bounty of its land. To his testament, no nation on Earth has the wealth and diversity of food products as does the United States.

Similarly, as chairman of the full Appropriations Committee, Chairman WHITTEN guided and shaped many of the programs that helped build our country. Through the power of the purse, he worked to ensure that our Nation was strong by making the necessary and appropriate investment in its people.

For me personally, Chairman WHITTEN has been a valued friend. Since the day I came to Congress in 1988, he has unselfishly offered his advice and counsel on the ways of this institution. But even before my election, Chairman WHITTEN was a friend of the Clement family. Both when my father was Governor of Tennessee and when I was a member of the Tennessee Valley Authority, Chairman WHITTEN responsed to our concerns and our ideas. He gave us the benefit of his advice and often a helping hand.

I will miss Chairman WHITTEN and I know my colleagues will as well. He devoted his life to this institution and this Nation. I am sure that in his retirement he will reflect proudly on his many accomplishments and on the vast wealth of this Nation, which he helped build.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 4576, a bill to name the Federal building at the northwest corner of the intersection of 14th Street and Independence Avenue SW., in Washington, DC, as the "Jamie L. Whitten Federal Building."

I would like to commend Congressman TRAFICANT, chairman of our Public Buildings and Grounds Subcommittee for sponsoring this important legislation and for his efforts and those of Congressman DUNCAN, the ranking Republican member of the subcommittee, in moving this bill expeditiously.

Congressman WHITTEN was born in Cascilla, Tallahatchie County, MS, where he attended Cascilla and Charleston public schools. He then continued his studies at the Literary and Law Schools at the University of Mississippi and was admitted to the Mississippi State Bar with the highest average in 1932.

At the age of 20, Congressman WHITTEN was already the principal of Cowart Consolidated School in Tallahatchie County and at the youthful age of 21, began his long and distinguished career in public service when he was elected to the Mississippi House of Representatives. At the age of 23, Congressman WHITTEN was elected district attorney of the 17th District of Mississippi, where he served two terms before he resigned when he was elected to the 77th Congress in 1941 during a special election. He served continuously thereafter.

Currently, Congressman WHITTEN is serving in his 27th consecutive term. As a Member of Congress, Congressman WHITTEN has made a number of significant contributions to this institution, the State of Mississippi and this Nation. Presently, he serves as a senior member of the House Committee on Appropriations. From 1979 to 1992, Congressman WHITTEN served the Appropriations Committee with distinction as its chairman. From 1949 to 1992, he served that committee as the chairman of

Rural Development and Agriculture Appropriations Subcommittee. He was the youngest person in history to chair that subcommittee, after only 5 years of experience. In fact, the Federal building that would be named after him, houses the Department of Agriculture. He also serves as the dean of the House of Representatives.

Mr. Speaker, Congressman WHITTEN's career continues to be filled with many honors. As a loyal and active alumnus of Ole Miss, the University of Mississippi Law School has honored him by establishing the Jamie Lloyd Whitten Chair of Law and Government.

As all of you know, in Congressman WHITTEN's long and successful political career he has earned the kind of bipartisan respect accorded to only true statesmen. There are many examples of this including in 1982 when his colleagues voted him, "the most effective chairman in the Congress" and in 1984, when Members from both sides of the aisle gathered to make a rare tribute to Congressman WHITTEN with an official unveiling of a portrait of the Congressman in a ceremony in Statuary Hall.

Mr. Speaker, it is only fitting and proper to honor our colleague and good friend Congressman WHITTEN by naming the Federal Agriculture Building at the northeast corner of the intersection of 14th Street and Independence Avenue, SW., Washington, DC, as the "Jamie L. Whitten Federal Building." I urge passage of H.R. 4576.

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

The SPEAKER pro tempore (Mr. COLEMAN). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4576.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. DURBIN. Mr. Speaker, I rise in strong support of H.R. 4576, a bill to name the administration building of the U.S. Department of Agriculture after our colleague, JAMIE L. WHITTEN.

Mr. WHITTEN was elected to Congress in November 1941 and only 14 months later was elected to the Appropriations Committee. In 1949 he became chairman of the Subcommittee on Agriculture, a position which he held for the next 44 years, except for the 2 years during the Republican 83d Congress when H. Carl Andersen of Minnesota served as chairman. Anyone who has read the hearing record from those 2 years, however, would have had trouble telling that JAMIE was not still chairman.

Over the 44 years he chaired the subcommittee he always put great effort into personally writing the introduction to the committee's annual report. This report became known as the annual report on the state of American agriculture. He has always been a tireless supporter of agriculture and the American farmer. Some years ago the Wall Street Journal, in a front-page article, referred to JAMIE WHITTEN as the "Permanent Secretary of Agriculture." In farm country the name JAMIE WHITTEN has been a household word for the last four decades.

Mr. Speaker, I assumed the chairmanship of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies in January 1993. Chairing the subcommittee for the last two budget cycles has made me appreciate the enormous debt of gratitude farmers and ranchers owe to JAMIE WHITTEN for his over 40 years of service to American agriculture.

Last month, just before we marked up the Agriculture appropriations bill for fiscal year 1995 in subcommittee, I talked to my good friend, JIM TRAFICANT, chairman of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation, about naming USDA's administration building after JAMIE. I was considering adding a provision to the appropriations bill since the bill had been reported under JAMIE's name for over 40 years. JIM wholeheartedly agreed with the idea of naming the building after JAMIE. JIM introduced the bill the next day and has expeditiously guided it through subcommittee, full committee, and now, the floor. He has done an outstanding job in moving this bill.

Mr. Speaker, this bill is a fitting and well-deserved tribute to our colleague, JAMIE L. WHITTEN.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4576, the bill just passed.

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

There was no objection.

WILLIAM H. NATCHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4577) to designate the Federal Building and U.S. courthouse located at 242 East Main Street in Bowling Green, KY, as the "William H. Natcher Federal Building and United States Courthhouse."

The Clerk read as follows:

H.R. 4577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, shall be known and designated as the "William H. Natcher Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "William H. Natcher Federal Building and United States Courthouse."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield whatever time he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

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

Mr. Speaker, it is really a moment both of happiness and sadness on my part. And, I think I speak for all Members of the House, all in the Congress, who ever did serve with our late colleague, Bill Natcher.

It is a moment of happiness because we think it is a fitting tribute to have a building, something tangible, something physical, something which is enduring, to be named after a man such as Bill Natcher because of his many talents and many accomplishments here in the House. But, of course, when we name a building posthumously, it is done after the namesake passes away and that, of course, is sad to those of us who remember Chairman Natcher, and it was my privilege to serve with him for almost 24 years, for his jauntiness, his quick step, his straight-arrow bearing, his constant energy, his wonderful ability to be friends with all Members on both sides of the aisle, his courtliness, his charm, his intelligence, and his amazing mastery of the legislative, appropriations, and budgetary process.

□ 1410

We in Kentucky always looked upon Bill Natcher, Mr. Speaker, as an icon, as a kind of symbol of what is best about public service, a symbol of what young men and young women could aspire to be if they chose a career in public service.

When he became ill and eventually, I think it was on March 3 when he missed his first vote in some 18,401 consecutive votes, we realized that things were changing, that an era was ending and that something had overtaken our friend which in the end was something he could not conquer. Death was the only thing, I believe, in his life that Bill Natcher never conquered and never mastered.

But what Bill did teach me, Mr. Speaker, and I think he taught all of us who worked with him, was that life is multifaceted, and the legislative process is multifaceted. As in life, we have to keep our priorities in Congress correctly arranged, or we get too deeply into one thing or too lightly into another.

I think the legislative and the political process is the same as the life process. It has many facets, and Bill was always able to maintain his decorum and his charm and courtliness, even in the midst of pressure when he sat in the

very chair you, Mr. Chairman, are sitting in managing these big appropriations bills.

I think Bill taught me a lot, Mr. Speaker, of how to handle our responsibilities as people and as professionals, and his passing is a loss to the people of Bowling Green, his hometown, to all of the people in the Commonwealth of Kentucky, his home State, all the people of the Nation, all the people here in this body and in the other body.

It certainly is of great pride to all of us that in Bill's last hours the President of the United States made a trip out to the hospital to visit with Bill, and that the President actually came to Kentucky to be part of the funeral ceremonies, and then as we all know, Mr. Speaker, over in Statuary Hall, there was a commemoration at which the Vice President, the Speaker, and other leaders spoke.

So we in Kentucky have lost a wonderful man. We are happy, through your leadership, Mr. Chairman, there will be some lasting and long-lived evidence of our respect and friendship and our fondness for Bill Natcher in the form of a building bearing his name. I want you to know how much we in Kentucky appreciate that, Mr. Chairman, and how much we will remember and revere our late friend, Congressman Bill Natcher.

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

Mr. Speaker, I rise in strong support of H.R. 4577, a bill to designate the Federal building and U.S. Courthouse in Bowling Green, KY, as the "William H. Natcher Federal Building and United States Courthouse."

William Natcher served with great distinction in the House for over 41 years. During that time Mr. Natcher did not miss a record vote or a quorum call. He took no campaign contributions, as has been noted, and he was very proud of that.

He was also proud of the fact that he issued just one press release a year, and that was to announce the continuation of his unblemished voting record.

In short, Mr. Natcher was a model Member of the House of Representatives. He served his constituents by his devotion to his job, and his main priority was to cast the votes on matters before the House.

As the Congressional Quarterly, "Politics in America" book says, Chairman Natcher set the standard for collegiality in this body.

Earlier this year, after Mr. Natcher cast what was to be his last vote, the House paid tribute to this fine man. While he was unable to attend this fitting tribute, it was a genuine and heartfelt testimonial.

I doubt there will be another Member who will even come close to equaling the record amassed by Mr. Natcher.

This body and this country will miss him. He was a man who was greatly admired by all of the Members on both sides of the aisle and was a kind Member, a kind person, and helpful to all of us.

I strongly support this legislation.

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

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of H.R. 4577, the bill to name our Federal courthouse at Bowling Green, KY, after Mr. Bill Natcher. I want to thank the chairman of this subcommittee, the gentleman from Ohio, and the minority ranking Member, the gentleman from Tennessee, for bringing this bill before us today.

Chairman Natcher meant so much to all of us. I had the privilege of, for several years, having breakfast with Bill Natcher every morning that we were in session.

As we all know, and it has been mentioned, he had never missed a vote. He, for many, many years, set some high standards for us, and I think this is very proper today that this legislation is before us to name this Federal courthouse after Mr. Natcher.

I am sure it will be a unanimous vote.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Speaker, I rise in wholehearted support of H.R. 4577, designating the courthouse and Federal building in Bowling Green, KY, as the "William H. Natcher Federal Building and United States Courthouse."

No one knows any better than I what an awesome responsibility it is to follow the Congressman, Congressman Natcher, in the Second District of Kentucky. I have the utmost respect for the tremendous feat, realizing how easy it would be to miss a rollcall vote, that Congressman Natcher was able to accomplish over a period of 41 years, the fact that he never missed a vote, accumulating 18,401 continuous votes. What a great and dedicated servant he was and truly a Kentucky treasure.

His memory is more than deserving of this honor.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, like the other members of the delegation, the gentleman from Kentucky [Mr. MAZZOLI] and the gentleman from Kentucky [Mr. LEWIS], I would like to add my compliments to the committee and congratulations to the committee for this very special honor that you are paying to our beloved Bill Natcher.

No one really knows the contributions this man made to the Nation. For the most part, his work was done in subcommittee away from the television lights and the newspaper reporters. That is the way he liked it. But it is also the way he was most effective.

He wrote the biggest budget in the Committee on Appropriations. In fact, someone told me one time that the subcommittee's appropriations budget was the fifth largest budget of any nation in the world; if it were a separate nation, it would be the fifth largest national budget. He did it in a very unassuming and humble way, and yet he worked changes of dramatic proportions in the country's education systems, in all aspects of the bill that he supervised. And he did it with little, if any, fanfare.

I am just delighted that you are going to see now on the name of a building in the hometown of Bill Natcher the name on the most prominent Federal structure in that city; it will be a constant reminder to the people who sent him here for all of those years and to the rest of us of the tremendous contributions that Bill Natcher made.

I wish we could name perhaps something much, much larger, and I am glad to see his successor in this body working to continue the work to name that new bridge under way at Owensboro across the Ohio River in honor of Bill Natcher.

But I am proud of the committee for your work, Mr. Chairman, and Mr. Ranking Member, the gentleman from Tennessee [Mr. DUNCAN], and I appreciate the remarks of our colleagues, the gentleman from Kentucky [Mr. MAZZOLI] and the gentleman from Kentucky [Mr. LEWIS], in his behalf, and I want to extend my compliments to them and congratulations on this notable achievement.

Let me say that the work of this man will not ever go unnoticed, because I hope that we will continue to be reminded here in this body of the tremendous impact he had on each of our personal lives and our service to the country and the House.

□ 1420

Mr. PENNY. I thank the gentleman for yielding.

Clearly it is agreed by all of us here in the House of Representatives that Bill Natcher was an example of public service at its best. Mr. Natcher arrived in this institution in a special election back in 1953 and served some 41 years. He rose to power as is the case with seniority around here, but he never once allowed that power to go to his head. He never once forgot where he came from or who he came here to serve.

Mr. Natcher waited his turn to take the reins of power. Others are driven by ambition, his only ambition was to serve his constituents and to serve his country.

In all the years that he served on the Committee on Appropriations he could have taken truckloads of port back to his home district in Kentucky. But that is not the way he played the game. He eschewed the temptation to pork barrel spend, even though the power to do so was in his hands. In fact, he discouraged his colleagues on the Committee on Appropriations from practicing the art of pork-barrel spending.

He would not fund projects in his appropriations bill unless they were duly authorized. He believed in following the rules and sticking to our normal budget process, which is to say that spending measures can only be approved for those initiatives that have been duly authorized by the appropriate committee.

And when he brought his legislation to the House floor, he always brought that measure forward under an open rule, which allowed for a fair debate on any amendments filed by the membership.

He did not believe in manipulating the process in order to protect his own prerogatives or his own priorities. He believed in a fair and an open fight on policy questions. He believed in allowing the process to work.

Mr. Speaker, it was stated by an earlier speaker that Mr. Natcher set the standards for collegiality—and he certainly did. When he presided over the House floor or the House proceedings, it was his own knowledge of Roberts' Rules of Order and the rules of the House that dictated his work in the chair. He knew those procedures better than anyone here except perhaps the Parliamentarian, and I am not so sure that the Parliamentarian would have known the rules of the House as well as Mr. Natcher.

He handled his authority with a good sense of justice and fair play, and he always kept the focus of the debate on the issues and not on the personalities.

He was an example to all of us in gentlemanly behavior and respect toward all of his colleagues.

After casting 18,401 consecutive votes back in March of this year, he missed his first vote due to the illness that ultimately led to his death. I think all of us on that day felt a deep sense of sadness and loss to know that after serving so faithfully and casting his votes so faithfully through all those years, that he had to accept the limitations of his own physical condition and stay in the hospital bed that day and miss a vote on the House floor.

But we are encouraged to know that his record of 18,401 votes will forever stand. It will stand as a monument to someone who came to Washington to serve and who served capably, honorably, and with exceptional commitment to America's high deals.

We will all miss Mr. Natcher more than words can express. In fact, he needs no monument to his service here in Congress; no public building or structure named after him can present to America a higher monument than he himself established by the way in which he conducted his service to America.

He will be remembered for the kind of person he was. He will be remembered by generations yet to come in Kentucky. He does not need this building named after him to be remembered, but it is our small way of expressing how much we respected him and how much we will miss him.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume. I have no additional speakers, but I would in closing like to once again thank the chairman of the subcommittee for his outstanding work and leadership on these three bills. And I would also like to note that I do not think there is anyone who has spent more time with or shown more kindness to the gentleman from Mississippi, [Mr. WHITTEN] in these last couple of years than has the chairman of our subcommittee. That has not gone unnoticed by many people in this body.

Mr. Speaker, I urge support for all of these bills. I would especially like to second the very fine comments by the gentleman from Minnesota [Mr. PENNY] in regard to Mr. Natcher whom all of us admired so greatly.

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

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

Mr. Speaker, if they ever develop a definition for a Congressman and place it in the Webster's Dictionary, it will be simply a photograph, a photograph of William Natcher. Bowling Green, KY: Known for Bill Natcher and the Corvette; both of them are American institutions.

Mr. Speaker, I want to concur with the comments made by the gentleman from Minnesota [Mr. PENNY]. In his fight to try to keep spending down, at times he brought amendments to Chairman Natcher's bill, and he was treated with respect and fairness and, wherever he could, a helping hand. To see Chairman MAZZOLI on the floor here, he is presently the dean of the congressional delegation from Kentucky, and he is moving on.

Mr. Speaker, this is a sad day for me as well. I think he too exemplifies the cut and the mold of the people from Kentucky. I think a big shadow has been cast over the State and cast over the entire Congress.

The record will reflect 18,401 votes, as the gentleman from Minnesota, stated; ladies and gentlemen, the first vote that Chairman Natcher missed was a rollcall vote on the Journal called for by JIM TRAFICANT from Ohio. I do not want the record to stand and to be memorialized in regard to my association with Bill Natcher as having been the congressman who called for a rollcall vote which due to illness Chairman Natcher was unable to cast his vote.

I would prefer that the record show that I will have been the Member to sponsor legislation to memorialize Bill Natcher and to name this building in Bowling Green, KY, after the great chairman.

Mr. Speaker, I think we all know what he stood for. We are all very proud to be associated with this legislation. We have been enriched by having known this great American.

Closing out, I want to thank the gentleman from Tennessee [Mr. DUNCAN] for his untiring effort in helping the country through many efforts and for supporting this legislation, for every Member who spoke on the floor, and for all of the staff who put together the details for us in bringing this legislation forward.

Mr. CLEMENT. Mr. Speaker, I am proud to speak in support of legislation naming a Federal courthouse in Bowling Green, KY, for our late distinguished colleague, William H. Natcher.

I was fortunate to know Mr. Natcher for many years prior to my election to the House in 1988. Both when my father was Governor of Tennessee and when I served as a member of the Tennessee Valley Authority, Mr. Natcher was a valued friend and adviser.

After my election, I often flew to Nashville with Mr. Natcher when we both returned to our respective districts. During those flights, Mr. Natcher often shared with me some of his great wealth of stories. More than any history book could, Mr. Natcher's stories brought life and color to the institution of Congress, its Members, and some of the controversies with which it dealt.

While Mr. Natcher's stories often included his judgments of people and events, more importantly they included an honest and heartfelt belief that the great majority of his House colleagues were sincere in their efforts to improve our Nation. Our democracy, he would say, is an amalgam, of different views and opinions. Congress reflected those differences and faced the great challenge of finding a way to accommodate them.

I know that many of my colleagues will have already spoken of Mr. Natcher's fairness and distinguished manner. Many will have commented on his respect for the institution, which was reflected in his unblemished voting record. But I will always remember Mr. Natcher for his commonsense approach to problems. It seemed that he had simple but concrete rules with which to evaluate issues and base his decisions. To be sure, they often were not easy decisions, but Mr. Natcher made them confident that they were his best and had the full support of the constituents of Kentucky's Second District.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 4577, a bill to name a Federal building and courthouse located at 242 East Main Street in Bowling Green, KY, as the William H. Natcher Federal Building and U.S. Courthouse.

At the outset, I would like to once again commend both Congressman TRAFICANT,

chairman of our Public Buildings and Grounds Subcommittee and the ranking Republican Member Congressman DUNCAN for their efforts in moving this bill today.

Congressman Natcher, was a universally respected and distinguished Member of Congress who made an impression on this institution that will never be forgotten.

Congressman Natcher was born in Bowling Green, KY. He was educated in the public school system of Warren County, received his undergraduate degree from what was then Western State College, today Western Kentucky University and he then received his law degree from Ohio State University.

Congressman Natcher began both practicing law and his long distinguished career in public service in 1934. He served as Federal Conciliation Commissioner from 1936 to 1937. During World War II he served in the Navy from 1942 to 1945. When he returned home, he continued his career in public service by serving as county attorney for Warren County for almost twelve years and commonwealth attorney from 1951 to 1953. In 1953, Congressman Natcher was elected to Congress and served this body with distinction until this year.

Throughout his service in Congress, Congressman Natcher was widely respected for his gentlemanly nature, gentility, and gracious manners. He was also well-known and admired for never missing a vote until he became gravely ill earlier this year. He proudly cast 18,401 consecutive votes. He is also greatly admired because he never took any political funds from any source, including political action committees. In a time of multimillion-dollar campaigns, Congressman Natcher financed his own campaigns. He campaigned by putting up signs and visiting and speaking with the people of his district.

Congressman Natcher did not have an extensive staff nor did he believe in becoming a hostage to the information superhighway of fax machines, copiers, and cellular phones. He believed in honest communication with his fellow Members, staff, constituents, and the people of this Nation. He was a devoted family man and wrote regularly to his grandchildren. Every day he faithfully made an entry into his journal.

From 1992 until 1994 he served as chairman of the Committee on Appropriations. During his tenure on that committee Congressman Natcher also served as the chair of Labor, Health and Human Services and Education Subcommittee. He loved being involved with social service issues and he was regarded with great respect and affection by all who were involved in working with him on these significant national issues.

Mr. Speaker, it is only fitting and proper to honor Congressman William Natcher by naming the Federal building and courthouse located at 242 East Main Street in Bowling Green, KY, as the William H. Natcher Federal Building and U.S. Courthouse. It is the least we can do for one who gave so much to this institution, and I urge passage of this bill.

Mr. DIXON. Mr. Speaker, I rise today in support of a bill (H.R. 4577) introduced by Congressman JAMES TRAFICANT, to name the Federal Building and U.S. Courthouse in Bowling Green, KY after the Honorable William H. Natcher, who died March 29, 1994.

Former Appropriations Chairman Natcher was the guardian of our appropriations legislation, and a champion for the values and ethics that are essential to the success of this institution. In 1978 I was named to serve on the Appropriations Committee and found the chairman to be extremely helpful in guiding me through the appropriations process. As many of you may be aware, Mr. Natcher chaired the Appropriations Subcommittee on the District of Columbia—the subcommittee which I now chair. In 1979, he was elected chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education. As the ranking member of the Appropriations Committee, Mr. Natcher was chosen to chair the Appropriations Committee following a long illness by then-Appropriations Chairman Jamie Whitten. He chaired the committee and subcommittee until his death.

Chairman Natcher was a true southern gentleman, an esteemed public servant, and rare politician. His modest demeanor belied the tremendous influence he wielded in Congress. One could always find Mr. Natcher working in his office in the Rayburn House Office Building or in his subcommittee office in the U.S. Capitol. He never missed a rollcall vote until he became seriously ill earlier this year. Chairman Natcher set a world voting record of 18,401 consecutive votes. In recognition of his many accomplishments, President Bill Clinton awarded Mr. Natcher the Presidential Citizens Medal in March of this year.

Congressman Natcher was an exceptional politician in other ways. He accepted no campaign contributions. Instead, Mr. Natcher would place a few newspaper advertisements announcing his candidacy. He also prided himself on remaining in direct contact with his constituents, often driving from town to town to meet with them personally.

Throughout his tenure in Congress and as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, Mr. Natcher was a staunch supporter of programs to improve education in rural and urban communities, and provide quality, affordable health care. He was an advocate for providing funds for medical research, and supported funding for the job corps and training of displaced workers. It is clear that Chairman Natcher placed his mark on this Nation's social policy.

Mr. Speaker, I urge my colleagues in the House of Representatives to join me in supporting H.R. 4577, which will be named in honor of the distinguished career and leadership of Honorable William H. Natcher. Chairman Natcher served nobly in the U.S. Congress for over 40 years, and his reputation as the consummate, committed statesman remains a challenge to all of us.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4577.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

□ 1430

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

□ 1431

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. 4603, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, June 24, 1994, the amendment offered by the gentleman from Texas [Mr. FIELDS] had been disposed of, and the bill had been read through page 40, line 24.

AMENDMENT OFFERED BY MR. PENNY

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

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 39, line 24, insert "(less $39,000,000)" before ", to".

Page 40, line 10, insert "(less $39,000,000)" before the colon.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

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There was no objection.

The Chair will allocate the time evenly between the gentleman from Minnesota [Mr. PENNY] and the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I will share half of my 5 minutes with the ranking minority member, the gentleman from Kentucky [Mr. ROGERS].

The CHAIRMAN. The Chair will allocate the time, as follows:

The Chair will recognize the gentleman from Minnesota [Mr. PENNY] for 5 minutes, the gentleman from West Virginia [Mr. MOLLOHAN] for 2½ minutes, and the gentleman from Kentucky [Mr. ROGERS] for 2½ minutes.

The Chair recognizes the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, the amendment presented to the House today is targeted at the following programs: The Columbia River hatcheries with a $9.5 million appropriation, regional climate centers, $3 million appropriations, the wind profiler program at $4.35 million, the Federal-State weather modernization program, $3.3 million, zebra mussel research program, $2.8 million, and the undersea research program at $16 million. These programs were slated by the Clinton administration for elimination. My amendment simply conforms with the request of the Clinton administration.

The National Oceanic and Atmospheric Administration funding for research programs totals more this year by 5.5 percent than was appropriated last year. By adopting this amendment, we will reduce by $39 million that increase of $98 million which has been included in this appropriations bill. Among the specific projects denied by the Clinton administration were the Columbia River hatcheries. The administration proposed allowing the Bonneville Power Administration to generate the necessary funds for the operation and maintenance of this hatchery program. In this way we would back the U.S. Government out of the obligation to continue funding in this area.

The regional climate centers' funding is designated for six regional climate centers located in New York, Illinois, Nebraska, Nevada, South Carolina, and Louisiana. The funding responsibility, according to the administration, should be shifted to the direct beneficiaries since the weather service is attempting to focus its limited resources on development of national and international weather models, and these regional weather stations are not deemed to be a national priority.

The wind profiler project has been proposed for a decrease in spending in order to discontinue the operation. NOAA in its budget document says that although the value of this data in operational weather forecasting has been demonstrated, it is not likely that acquisition and operation of a national system can be supported given the current budgetary climate. Therefore they no longer need to operate this particular program.

In addition, the amendment cancels certain State weather modernization grants. This program is actually getting an increase over fiscal year 1994 levels, but the administration has requested a $3 million cut to terminate the North Dakota, Utah, Nevada, Illinois, Arizona, and Texas modernization grants. This type of State oriented cloud physics, according to NOAA is more appropriately the responsibility of the individual States and does not need Federal financing.

In addition, the zebra mussel program is an item which the administration also wanted to cancel. According to NOAA "to the extent that funding is needed for this activity, the peer review competitive process of the Sea grant can fund these activities." We do not need, in other words, a special line item appropriation in this particular legislation.

That describes several of the cuts which I have proposed for this bill.

I again would remind my colleagues that these were cancellations and reductions requested by the Clinton administration. This is an area in the budget that has been slated for an increase. Even with these reductions there will be an increased level of funding for NOAA research. I would urge favorable consideration of the amendment.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia for 2½ minutes.

Mr. MOLLOHAN. Mr. Chairman, I rise in strong opposition to this amendment to cut $39 million from the NOAA operations account. The gentleman has targeted six programs. Each of these NOAA programs was funded in the fiscal year 1994 bill and all have been included for many years in the appropriations act.

Mr. Chairman, these are especially important programs to the Members and citizens across this country. Let me just briefly highlight a few of them:

The Columbia River hatcheries. These hatcheries are designed to maintain salmon and other fish stocks which have had their habitats degraded or destroyed by Federal activity such as dams. This program is vital to regional strategies dealing with the problems facing salmon fisheries in the Pacific Northwest.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from the State of Washington who came before our committee and testified so effectively on behalf of this particular appropriation.

Mr. DICKS. Mr. Chairman, I just want to say we in the Pacific Northwest are extraordinarily concerned. We have the imposition of the Endangered Species Act. We are taking extraordinary measures to try and protect these salmon; and the Columbia River hatcheries, the so-called Mitchell hatcheries, are absolutely crucial to this effort.

The gentlewoman from Washington [Mrs. UNSOELD] is on the floor, and she has been as concerned about this as I am, and I just hope the Committee will reject the amendment offered by the gentleman from Minnesota [Mr. PENNY] and stay with the chairman.

Mr. Chairman, I rise in strong opposition to this amendment, which would reduce $40.5 million for activities of the National Oceanic and Atmospheric Administration.

I take specific issue with the portion of the amendment that would delete $9.5 million for operation of Columbia River fish hatcheries authorized by the Mitchell Act. The Mitchell Act, enacted in 1938, authorizes funding for 10 Oregon and 15 Washington State hatcheries to maintain migratory fish in the Columbia Basin because of degradation and destruction to habitat caused by nonpower aspects of Federal dams, such as navigation, irrigation, flood control, and recreation.

For the last 56 years, these hatcheries have provided more than 1 million adult salmon, steelhead, and cutthroat trout to sport, commercial, and tribal subsistence fisheries annually from Alaska to California. The hatcheries produce 50 to 70 percent of the salmon released into the Columbia River.

Some have suggested that the operation of these hatcheries be paid for by the Bonneville Power Administration. But this public investment represents a modest complement to what is now a $350 million annual mitigation effort undertaken by Bonneville Power Administration, reflected in the rates it charges customers. This mitigation program has more than doubled over the last 3 years.

Even if you think that BPA should pay, it can not under current law. If this amendment is adopted there will be no choice but to cease hatchery operations.

As many of my colleagues know, we face a significant fisheries management crisis in the Pacific Northwest. We are witnessing the lowest number of returning adult salmon on record. Endangered Species Act concerns, along with the effects of El Niño and ongoing disputes with Canada over fisheries harvest, have combined to produce a profound impact on the Pacific Northwest.

The response to these problems has already involved the termination of ocean commercial fishing off Oregon and Washington, with severe restrictions on sport salmon fishing. It is impacting operations of, and rates charged by, the Bonneville Power Administration. Terminating the operation of these hatcheries would further threaten an industry that produces between $100 to $150 million in economic activity to the Pacific Northwest.

Finally, terminating these hatchery operations would likely put us in violation of our international agreements with Canada, Japan, and Russia to preserve the North Pacific

Salmon fishery. At a time when tensions with Canada are reaching serious levels, this amendment would fundamentally undermine our bargaining position.

Recognizing all these factors, the Commerce Department's Chief Financial Officer has proposed redistribution of $10.3 million within NOAA to address a critical fisheries management operations issue. The Department is proposing to reduce the proposed increase for the Marine Fisheries Service to offset the funding needed for hatchery operations. I am also assured that the administration expects to continue requesting funding in future years. The proposal is currently under review at OMB, with prompt approval expected.

In light of all these factors, it is apparent that the Penny amendment is ill advised and should be rejected by the House. Oppose the Penny amendment.

Mr. MOLLOHAN. Mr. Chairman, I thank the gentleman for his testimony before the committee on this.

Mr. SKAGGS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I also yield to the gentleman from Colorado [Mr. SKAGGS], a distinguished member of our subcommittee.

Mr. SKAGGS. Mr. Chairman, I appreciate the gentleman from West Virginia [Mr. MOLLOHAN] yielding to me.

On a different piece of this amendment, Mr. Chairman, I just want to point out to my colleagues how critical it is that we also maintain the wind profiler program within the National Oceanic and Atmospheric Administration. It is an absolutely critical element in the future of highly precise measurement of the upper atmosphere winds. This was not included in the President's budget request, essentially by error, which everyone now recognizes.

Mr. Chairman, we have got to continue this program for aviation safety, the application of this technology in the commercial area, and many, many other reasons, and I appreciate the gentleman from West Virginia for having yielded on this point as well.

Mr. MOLLOHAN. Mr. Chairman, we appreciate the work of the gentleman from Colorado [Mr. SKAGGS] on this. He has been particularly effective in bringing this program to our attention.

Mrs. UNSOELD. Mr. Chairman, I rise in opposition to the amendment and thank the chairman for his work.

Congress authorized the Mitchell Act in 1938 to mitigate the impact of Federal hydroelectric projects in the Columbia River Basin.

The Mitchell Act Hatcheries Program has focused funds on fish hatcheries in-stream improvements—fishways and irrigation screening—and research related to improving the quantity and quality of fish produced in the system. The Federal Government has invested significant financial resources in this program, and until alternative funding for the hatcheries is assured, the Federal Government must continue its commitment to the program. Last year, $18.5 million was appropriated.

Congressional funding has growth from a one-half million dollar appropriation in 1938, to about $8.5 to $9.5 million annually. These funds support the Columbia River Fish Development Program administered by the National Marine Fisheries Service. Between $6.5 and $7.5 annually of these funds go to the Washington Department of Fish and Wildlife and Oregon Department of Fish and Wildlife to run 25 hatcheries. These hatcheries produce 3 to 3.5 million pounds of juveniles, or about 100 million smolts each year, mostly on the lower Columbia River. In addition, this program has funded the construction of approximately 800 irrigation diversion screens; it continues to maintain about 600. Through this program, 45 fish ladders have been built, of which 43 are still operating.

We are currently facing a salmon crisis in the Pacific Northwest. The decline of Northwest salmon stocks can be attributed to a variety of human-related activities, including damage to habitat, hydropower operations, and fishing, but two recent natural events have contributed signficantly to the sudden decrease in overall numbers: consecutive years of drought and El Niño conditions. While there are no direct actions that U.S. fisheries managers can take to alleviate these natural problems, the present situation generates more pressure to take steps over which we do have control, particularly fishing harvest levels and hydropower operations.

Due to the prediction of unprecedented low escapement numbers for Coho and Chinook, the Pacific Fisheries Management Council has closed the coastal harvest season for the first time in history. There will be little if any Columbia River commercial or recreational harvest allowed this season, and tribal fishing will also be significantly reduced or curtailed.

Although not originally in the fiscal year 1995 budget request, the administration has now committed to funding the Mitchell Act for fiscal year 1995 at the level of $10.3 million. This funding will be taken from existing NOAA programs and will not represent an increase in NOAA's overall fiscal year 1995 budget. This change reflects a recognition of the serious problems facing the Columbia River Basin salmon runs.

The Mitchell Act Hatcheries Program is vital for the continued availability of harvestable salmon stocks for tribal and other fishing interests while we continue to address recovery of weak stocks. I urge my colleagues to oppose the Penny amendment and support the continued funding of this important program.

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The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] on this amendment has expired.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Minnesota is trying to cut several very important programs within the NOAA count. The cuts would have a drastic effect on critical programs affecting public health and safety as well as economic growth. It would eliminate 7 important scientific and environmental programs of NOAA, impacting 29 States.

In addition, it would zero out the National Undersea Research Program, a critical part of NOAA's mission since 1971. This program supports research on the world's oceans and large lake ecosystems. Sea Grant research on zebra mussels is vital to understanding and protecting marine systems and the Great Lakes ecosystems as well as many more freshwater streams around the country. In fact, zebra mussels are now as far south as my district in Kentucky. They have been discovered in Lake Cumberland. This is a very damaging animal that must be researched.

So this amendment would be destructive of some very important research programs with which the Congress disagrees with the administration. There is nothing new about that, but the Congress wants these programs, and that is the reason we are opposing this amendment on a bipartisan basis.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield briefly?

Mr. ROGERS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I appreciate the gentleman's singling out the Zebra Mussel Research Program which the Committee on Public Works and Transportation authorized to deal with this extraordinarily destructive mollusk that has invaded the Great Lakes. It was carried in ballast from the Black Sea and is now destroying the food chain in Lake Erie. It has moved into Lake Michigan. We find it also in Lake Superior, and it has moved down the river systems and into the inland lakes.

The mollusk cleanses the water by destroying and eating all the vital plankton in the water column, which leaves clear water but no food for fish to feed upon. The only way we are going to get at the cause or the means of controlling this terrible organism is through research.

I do not know how well-intentioned the gentleman's amendment is or what the gentleman's purpose is, but it certainly misses the point of dealing with a very destructive organism which is in 20 percent of the world's fresh water. The amendment just does not make any sense.

Mr. Chairman, I appreciate the gentleman's yielding.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Minnesota [Mr. PENNY] to cut $39 million from the budget of the National Oceanic and Atmospheric Administration [NOAA]. I urge my colleagues to defeat this amendment.

The amendment would, among other things, eliminate $16 million of the National Undersea Research Program [NURP]. NURP is administered by six centers across the Nation, including one at the University of Connecticut Avery Point campus. These centers are responsible

for important marine research in our coastal waters and in the Great Lakes. The Avery Point Center alone conducts research in the Atlantic north of New Jersey and in the Great Lakes. The Avery Point Center is involved in research on marine habitat destruction, movement of pollutants in the food chain, and environmental technology development.

Mr. Chairman, the research conducted at Avery Point is especially important today in light of the collapse of the New England groundfishery. As many of my colleagues from New England know, groundfish populations in waters off our coasts are at alltime lows. In January of this year, the Commerce Department issued emergency rules which will reduce harvests by 50 percent over the next several years. The Department has also committed $30 million to assist fishermen in dealing with these drastic cutbacks. These restrictions will have substantial adverse effects on fishermen and communities which depend on fishing.

The Avery Point Center is engaged in research on groundfish habitat which is designed to determine where it has been degraded and where productive habitat can be utilized. The center is making special use of underwater robots to produce habitat surveys which are many times more detailed than traditional trawl methods. This research has vitally important implications for our efforts to rebuild groundfish stocks. It would be foolhardy to terminate the center's research at such an important juncture.

Mr. Chairman, the subcommittee already cut NURP's budget by $2 million in its bill. This will require the centers to trim their already razor-thin budgets and reject worthy research projects because of lack of funding. I firmly believe that marine research is worth a $16 million investment and I urge my colleagues to reject this amendment.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment offered by our friend and colleague, Representative PENNY, to cut 20 percent of the funds appropriated in H.R. 4603 for the Economic Development Administration, better known as the EDA.

In this bill, while the funding level of $371 million for the EDA is $20 million more than last year, the fact is that it is $41 million less than the President requested, and of that amount $80 million is set aside for defense conversion grants.

Little more than a month ago, the bill reauthorizing the EDA was passed on this floor by a resounding vote of 328 for to 89 against. Now our responsibility is to fund it.

As stated during the reauthorization bill's passage, the bill provides for important, even vital, new approaches for the EDA to move forward in time, putting a greater emphasis on leveraging EDA funds with non-Federal funds, all of which will be used to target areas with the greatest needs, that are suffering dire economic distress.

Most important of all, these funds, which will leverage billions in private sector funds, will be used for jobs, jobs, jobs—both creation of jobs, and retention of jobs. This is especially true in areas hit hard by base closures, but also in areas that have been and will be in the future, hit hard by natural disasters.

The biggest disaster of all, however, in the context of EDA funding, is that it is needed overall to help rebuild and rehabilitate our infrastructure, and to find new and innovative ways in which to lead long-term, economically distressed areas to economic recovery along with the rest of this Nation.

The money in the bill is tightly targeted. Gone is the old grandfathering of eligibility. In its place is a new requirement that eligibility must be proven each time an economic development project application is submitted. This change was in response to charges heard in the House that the old grandfather clause made 85 percent of the entire country eligible for EDA grants, instead of only chronically distressed areas as originally envisioned.

I urge my colleagues to reject the Penny amendment to cut 20 percent of the EDA funding in H.R. 4603, the Commerce, State, and Justice appropriations bill.

Ms. LOWEY. Mr. Chairman, I rise in opposition to the amendment being offered by the gentleman from Minnesota, which would eliminate funding for a series of programs administered by the National Oceanic and Atmospheric Administration [NOAA].

I share my colleague's desire to reduce the deficit, and I am proud to have supported last year's historic deficit reduction plan, which will reduce our budget shortfall by nearly $500 billion.

But in opposing this amendment, I want to remind my colleagues of a fundamental reason for reducing the deficit—to enable the Federal Government to respond to pressing national problems. The Penny amendment would reduce Government expenditures. But at the same time, it would gut the Federal Government's effort to respond to an emerging environmental and economic crisis caused by the infestation of zebra mussels in inland waterways across much of the East and Midwest.

Zebra mussel infestation is fast becoming a serious national problem. This prolific species fouls and shuts down water utility systems, beaches, and navigational locks, and can cause serious harm to aquatic ecosystems. The Office of Technology Assessment [OTA] estimates that the power industry alone may face a cost of more than $3.3 billion because of the zebra mussels. The U.S. Fish and Wildlife Service has estimated that the zebra mussel could cause an additional $500 million in damage to fisheries and other ecosystems.

Let's not kid ourselves, American taxpayers, as consumers, will pay those bills if this problem is not effectively addressed. Also, this is clearly an interstate problem. We would be irresponsible to turn our backs.

The Penny amendment would eliminate the $2.8 million set aside in the bill for research on zebra mussels. Mr. Chairman, the only way we can avoid the devastation caused by zebra mussels is to learn more about them. A $2.8 million investment that can help avert billions in economic and environmental damage strikes me as a sound investment.

I urge my colleagues who share my strong belief in deficit-reduction to remember that not all cuts are created equal. The savings promised by the Penny amendment will be overwhelmed by the cost of failing to respond to the spread of zebra mussels and other nuisance species. Vote no.

Mr. STUPAK. Mr. Chairman, I stand today in strong opposition to the amendment offered by Representative PENNY which would cut the NOAA Undersea Research Program and sea grants for zebra mussel research.

The health of the Great Lakes is important to the entire Nation and the zebra mussels threaten commerce and the environment of the Great Lakes.

Introduced in 1986 by a Russian flagged ship, the zebra mussel invasion could cost this country $5 billion by the year 2000. The utility industry alone, stands to lose approximately $3.3 billion in the next decade. Due to zebra mussels.

With last year's Mississippi River floods, the zebra mussels have spread from Congressman PENNY's home State of Minnesota through the inland waterways and lakes of 19 States and it continues to spread. They attach to the hulls of recreation & fishing boats, with the boat operator unknowingly spreading the zebra mussel problem to other inland waters.

One female mussel can produce over one million eggs per year.

Zebra mussels collect PCP's and distribute them to unsuspecting birds and fish who eat them. The mussels are suffocating the fresh water clam population. Zebra mussels further threaten the Great Lakes, inland lakes because they feed on tiny organisms, tiny organisms which keep our lakes free of algae.

The tiny thumbnail size mollusk attaches itself to any hard surface including the hulls and rudders of cargo ships, affecting navigational ability. It clogs intake valves of water treatment centers and power plants attaching themselves to create barriers as thick as 8 inches.

Great Lakes sea grant programs are developing ways to cope with this problem. Most biologists believe the zebra mussel cannot be eradicated, only controlled. They have taken the lead in developing techniques to deal with this national problem and we should not stop this research.

The Great Lakes provide the United States with 95 percent of its fresh water with nearly 25 million people tapping the Great Lakes for their drinking water.

Two hundred million tons of commodities pass through the Great Lakes every year and 20 billion kilowatt-hours of electricity is produced by Great Lakes water.

We cannot tamper with the health of not only the Great Lakes but our Nation's waterways. For the sake of our environment, for the sake of shipping and boating industry, all of us depend on the Great Lakes.

I urge the Members to defeat this amendment.

Mr. WELDON. Mr. Chairman, I rise in opposition to the Penny amendment which would cut $39 million from the National Oceanic and Atmospheric Administration's [NOAA] fiscal year 1995 appropriation. I would also like to compliment the Appropriations subcommittee Chairman ALAN MOLLOHAN and ranking Republican HAROLD ROGERS for their efforts to adequately fund NOAA's programs.

As the ranking member on the Oceanography, Gulf of Mexico, and Outer Continental Shelf Subcommittee of the Committee on Merchant Marine and Fisheries, I have had the opportunity to hear hours of testimony on NOAA's budget. NOAA's ocean science, education and protection programs are among the

most important Federal environmental initiatives in existence.

Covering well over two-thirds of the world's surface, oceans control our weather and climate, and hold vast but finite supplies of food and energy. All life originated in our oceans, and our oceans still hold the key to the continued health of our planet's environment.

NOAA, as our Nation's steward of the oceans, plays a critical role in assuring that we understand and protect this valuable resource. Through programs which range from strictly scientific, such as the National Undersea Research Program [NURP], to educational, such as the Global Learning and Observations to Benefit the Environment [GLOBE] program, to regulatory, such as the administration of the Coastal Zone Management Act [CZNA], NOAA has a broad ocean, Great Lakes and coastal science, education and protection portfolio which it manages on a shoestring budget.

Historically, the United States has spend little on enhancing our understanding of the marine environment, while at the same time expending billions of dollars on the exploration of space. The irony is that we have probably spent more money searching for water bodies on other planets than we have on understanding our own oceans.

The fiscal year 1995 budgets are no different. Next year, the National Aeronautics and Space Administration [NASA] will receive over 20 times the funding for NOAA's wet programs.

Already, NOAA's budget in the Commerce, justice, State bill is decreased by roughly $90 million from its fiscal year 1994 appropriated total. The numbers for specific ocean science programs are even worse. The total budget for NOAA's Oceans and Great Lakes programs, which include programs such as NURP and Sea Grant zebra mussels research, is only $81 million, a $4 million decrease from fiscal year 1994.

Today, even these small sums are coming under assault. The Penny amendment, although well intentioned, would zero-out important initiatives such as NURP and Sea Grants zebra mussel research, cutting NOAA's Ocean and Great Lakes programs by almost 25 percent. Both these programs support the work of our Nation's leading academic institutions and are scientifically peer review.

Eliminating NURP would cripple NOAA's undersea research programs. Undersea research has been a critical part of NOAA's mission since 1971. NURP supports research on the world's oceans and large lake ecosystems. The initiative is one of the most successful marine science programs administered by NOAA.

Likewise, the Sea Grant research program on zebra mussels is an important project which should be maintained. The research has been vital to understanding and protecting marine and Great Lakes ecosystems. Zebra mussels cause millions of dollars in damage to infrastructure and crowd out indigenous species. Spending limited sums on studying the program today will save the taxpayers millions in the future.

If we expect NOAA to continue to carry out its most important missions and continue to supply us with the science necessary to protect our marine resources, we must not let such amendments prevail.

Mr. Chairman, NOAA's programs, especially its ocean science, educational, and protection programs, cannot afford another cut. I urge all my colleagues to oppose the Penny amendment.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota. This amendment would eliminate important scientific and environmental programs from an agency that has already been cut some $87 million below its fiscal year 1994 level.

In particular, I am disturbed because the amendment would eliminate funding for NOAA's National Undersea Research Program or NURP.

The NURP program is a highly competitive and progressive program which assists leading scientists with research in the great lakes, the oceans, and on the sea floor using the most modern technology. NURP centers, located throughout the country, focus their research on the identification, distribution, and impact of contaminants in the marine environment; sediment dynamics; recruitment of economically important fish and invertebrates; and beach erosion. This work has enhanced our knowledge of the dynamic process governing our oceans, increased our understanding of fisheries, and expanded our general knowledge of the deep sea environment.

NURP has consistently proven its important role in providing opportunities for the scientific community to conduct research not possible within the limits of traditional ship-based research and laboratories.

NURP has also contributed to advances in biotechnology and gear design, advanced underwater technology, and fostered the development of small businesses.

Furthermore, the program is taking a lead role in addressing questions associated with global environmental change. Indeed, NURP offers a distinct advantage compared to the traditional oceanographic approaches to global climate change programs. With advanced undersea technology, NURP is able to obtain precise measurements ocean processes at spatial and temporal scales not attainable with conventional techniques. This information can be used to complement the broad-scale time-series information currently obtained from the various global change programs.

These are important scientific efforts. And they are important to Members of this body because NURP provides the opportunity to study the processes governing our oceans and great lakes so that we and others in government can make the appropriate decisions regarding proper management and protection of these valuable resources.

Over the years, NURP has enjoyed very strong support by the Merchant Marine Committee as well as by the House of Representatives as a whole. We must continue our support and I urge my colleagues to join with me and defeat this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The amendment was rejected.

AMENDMENT OFFERED BY MR. GOODLATTE

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

The Clerk read as follows:

Amendment offered by Mr. GOODLATTE: Page 39, line 24, insert "(less $26,060,000)" before ", to".

Page 40, line 10, insert "(less $26,060,000)" before the colon.

Mr. ROGERS. Mr. Chairman, I wonder if we could establish a limitation on debate on this amendment, allowing, say, no more than 20 minutes, 10 minutes per side on the amendment.

Mr. Chairman, if that would be agreeable to all around, I make that as a unanimous-consent request.

Mr. MOLLOHAN. Mr. Chairman, reserving the right to object, the request is certainly agreeable on this side.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky for a limit of 20 minutes to be divided equally between the proponent and an opponent of the amendment?

There was no objection.

The CHAIRMAN. The gentleman from Virginia [Mr. GOODLATTE] will control 10 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] will control 10 minutes.

Mr. MOLLOHAN. Mr. Chairman, I will share half of my time with the gentleman from Kentucky [Mr. ROGERS].

The CHAIRMAN. The Chair recognizes the gentleman from Virginia [Mr. GOODLATTE].

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

Mr. Chairman, I rise to offer an amendment that would strike $26,060,000 from the NOAA budget for operations, research, and facilities. This amount reflects the sum appropriated to four projects that weren't authorized. The House hasn't passed authorizing language for the Atlantic bluefish tuna research, the fishery observation training, and the National Institute for Environmental Renewal. The House has passed authorization for the National Weather Service, but this bill appropriates $25,140,000 over the lawful amount.

Appropriating funds for these programs violates the rules of the House which ban appropriations to unauthorized projects. Under the rules of the House, any Member should be able to strike these projects on a point of order, however, these rules have been waived for this bill.

H.R. 4603 includes $300,000 for the Atlantic bluefish tuna research. This program's goal is to ensure that American fishermen are in compliance with international trade regulations for the bluefish tuna. The Department of Commerce regulates this trade, yet the National Oceanic and Atmospheric Administration [NOAA], a branch of the

Commerce Department, hasn't requested funding for this program.

The fishery observer training program trains people to accompany fishing vessels for the purpose of data collection and to prevent throwback waste. The training is mandated by the Magnuson Fisheries Conservation and Management Act, and H.R. 4603 appropriates $120,000 for the continuation of this program. But, NOAA already has a program in place to cover this training and fulfill the Magnuson requirements. This program duplicates the NOAA program and is much smaller in scope.

The National Institute for Environmental Renewal was appropriated funds last year without authorization. They are trying to do it again this year. The program was given $500,000 by the appropriators to continue its study on nonpoint pollution runoff into the Chesapeake Bay. Even though this study might benefit my home State of Virginia, we must strike the funding from H.R. 4603. It has not been authorized and, I will say it again, we can not appropriate funds for unauthorized programs.

The House passed H.R. 2811, the NOAA reauthorization bill, on November 20, 1993, by a voice vote. This bill authorized $458,305,000 for the National Weather Service, yet H.R. 4603 appropriates $483,445,000, $25,140,000 above what the House approved. Since all points of order have been waived, we have to strike this violation of House rules via amendment. The Goodlatte amendment does just that.

Members who oppose this amendment will come down to the well here and sing the praises of these programs. If they were authorized programs I might be a member of that chorus. I do not intend for these programs to fall because they are not worthy of merit. Rather, they must be zeroed out because this is a procedural abuse. Someday, Congress may realize that the low esteem of the public is earned by actions such as including unauthorized pork in appropriation bills.

As I started the research for this amendment, I knew I would encounter opposition. More impressive, however, than the predicted dissenters are those who have offered their support. The bipartisan Porkbusters Coalition, cochaired by Mr. FAWELL and Mr. PENNY were quick to offer their support. The over 250,000 members of the Citizens for a Sound Economy and the more than 600,000 members of the Citizens Against Government Waste endorse this amendment. They sent me a letter of support, in which they write:

> While the programs in question may have some merit, they have not been authorized and as such are objectionable. As with other pork-barrel spending, they cannot be justified . . . unless they pass muster with the authorizing committee of jurisdiction.

The Citizens Against Government Waste will consider this vote for their congressional ratings this year.

I urge every Member of this House to do the right thing and obey the rules we have set to govern ourselves. If we ignore the rules that we pass to govern this House, why should the public obey the rules we pass to govern the country.

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

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Mr. MOLLOHAN. Mr. Chairman, the amendment offered by the gentleman from Virginia [Mr. GOODLATTE], I oppose very strongly. It cuts a total of $26 million from the NOAA operating account.

Now, that means a $25 million cut from National Weather Service staffing, 17 percent below the amounts recommended in the bill. Mr. Chairman, a cut of that magnitude would force the closure of 44 part-time weather services offices in 30 States across this great Nation, States including Alaska, California, Indiana, Mexico, Oregon, Texas, and Virginia. You can see that it affects in a very dramatic and negative way the Weather Service, which is something that I do not think this Congress can tolerate.

The cut would also mean that 21 Weather Service offices receiving new NEXRAD radars could not be staffed in fiscal year 1995, including stations in Florida, Texas, New York, Illinois, Nebraska, and California.

The Congress has already made a commitment to modernization of the National Weather Service. This amendment would severely delay the modernization effort and cause further cost increases in future years.

Mr. Chairman, I reserve the balance of my time, and oppose the amendment.

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

Mr. Chairman, I am opposed to the amendment as well. This amendment would cut the operations, research, and facilities part of NOAA, in my judgment the most important part, by this amount of money. My greatest concern about the intent of the amendment would be the cut that would be imposed, as the chairman has said, on the Weather Service, on the modernization.

Every single American relies upon the National Weather Service through their local television channel, as well as the radio, newspapers, and, of course, the weather radio service, to learn about dangerous weather, as well as we hope sometimes even pleasant weather. But even our lives can depend upon an effective National Weather Service.

This amendment would cut what is already a weak amount of money for the National Weather Service modernization program. Congress has invested over $1 billion in modernization. This amendment would force premature closure or cutbacks in the Weather Service offices before these new modernized offices are brought on line. So I think the amendment would pose a threat to public health and safety, because it would degrade services in many areas. It would also delay staffing in 43 Weather Service offices coming on line in 1995, increasing, not decreasing, the costs for modernization.

Mr. Chairman, I urge a "no" vote on the amendment.

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

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia [Mr. GOODLATTE]. The amendment strikes three unauthorized projects which are included in the NOAA account. These include $300,000 for Atlantic bluefin tuna research, $120,000 for fishery observation training, and $500,000 for the National Institute for Environmental Renewal. These projects are not authorized by the Committee on Merchant Marine and Fisheries. I understand they are not even requested by NOAA, so they cannot be of tremendous importance.

In the case of the Atlantic bluefin tuna, NOAA does not support the existence or continuation of this program. This is an express violation of House rules.

Also addressed in this amendment is a $25 million appropriation above the authorized level of funding for the National Weather Service. In the days of limited budget resources, we cannot afford unauthorized increases like that.

Mr. Chairman, the Committee on Merchant Marine and Fisheries and the Committee on Science, Space, and Technology, the committees of oversight for these programs, have not authorized these appropriations. They are appropriated in violation of House rules which specifically ban unauthorized appropriations. The gentleman from Virginia should have been able to rise on the floor and simply make a point of order. But, like is oftentimes the case, he is forced to come out here and have the burden of presenting an amendment.

Mr. Chairman, I urge the support of the House rules. As Members of the House of Representatives, we should have zero tolerance for misappropriated funds. I urge a "yes" vote for fiscal responsibility. I urge a "yes" vote to save taxpayers $26 million. I urge Members to vote in favor of the Goodlatte amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1½ minutes to the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I rise in very strong opposition to the amendment. With all due respect to the previous speaker, this a bluefin tuna, not bluefish tuna. I think that that pretty much gives away the amount of knowledge that stands behind the amendment.

I do not know much or anything about soybeans, but I do know something about bluefin tuna. Let me assure the gentleman while this may appear on the surface to one not familiar with the problem to be an easily mocked item, first of all, it is extraordinarily important.

There is a multimillion dollar commercial and recreational industry based on the Atlantic bluefin tuna. It is of enormous importance to most of the east coast of the United States, at least to the northern part of the east coast. Our science is not up to telling us why these stocks are crashing. There needs to be international management of the stocks.

The United States is party to an international convention, and we do not know enough to manage these stocks wisely. If we fail, we will have lost a very, very important industry. You are targeting, among other things, in this amendment, $300,000 for the New England Aquarium for research on the Atlantic bluefin tuna.

This is authorized. The standing authority of the National Marine Fisheries Service to conduct fisheries research is more than adequate general authorization for any fisheries research on commercial stocks.

This is precisely what it is. It is the core of the responsibility of the National Marine Fisheries Service. It is enormously important. And although it may be easy to make fun of, it is not very amusing to someone whose livelihood depends on this. It is a small and very important item.

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

I would point out to the distinguished chairman of the subcommittee that the report of the subcommittee on page 47 refers to Atlantic bluefish tuna research. So I think the gentleman from Illinois was in good faith in comments that he made. But bluefish or bluefin, it is unauthorized.

Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, we are once again seeing business as usual in this Congress. Why do we time and time again reinforce to our constituents the worst stereotype about Members here? Four programs, all unauthorized, all unrequested by the President, snuck through the process and made their way to the House floor to protect some very small but influential interests.

For any Member who has cosponsored the A to Z initiative, think of this amendment as B for bluefin tuna and F for fishery training.

Mr. Chairman, would somebody please explain to me why it is of vital national importance that we spend $300,000 on Atlantic bluefin tuna research? Why do we need to spend $120,000 for fishery observation training? At a time when our national debt is over $4 trillion and certain Members claim victory on our annual budget deficit, we cannot just justify spending all this money on the programs just to appease Charlie Tuna.

Everybody seems to look to the Federal Government to solve our problems. Why cannot the fishing industry itself raise their own money to do their own research, instead of coming to Congress and saying we need the money?

The people in this country have had it. They are tired of all this spending. Bring an end to it, stop the unauthorized spending, and let us go with the Fawell amendment.

□ 1500

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

There have been several references to this program not being authorized. I would like to make it very clear that that amendment represents a decrease in funding for the National Weather Service by more than $25 million. The gentleman says this funding is not authorized. I believe the gentleman is probably referring to an authorization level set in H.R. 2811, which passed the House in November of last year. The chairman of the authorizing committee, is very familiar with this. It set a fiscal year 1995 authorization level for the Weather Service prior to actual budget estimates being developed and submitted for consideration by the Congress.

That authorization bill was never taken up by the Senate and was never enacted into law. I am certain the Committee on Science, Space, and Technology, the authorizing committee for the Weather Service, would consider the actual fiscal year 1995 funding requirements and change their authorization levels for this program should further action be taken on the NOAA authorization bill.

So it is really quite a technicality that the gentlemen who are offering this amendment raise. I would like to point out that this amendment would cut a significant number of weather services. It would have an incredibly negative impact on the ability to predict weather and to man these weather stations. One of them which would be cut that the gentleman ought to appreciate is in Lynchburg, VA. I am sure that that would be an unintended result for the gentleman who, I understand, represents part of that area.

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

Mr. ROGERS. Mr. Chairman, I have no further requests for time and will be in a position to yield back the balance of my time. I want to reassert my opposition to the amendment of my good friend, the gentleman from Virginia. I wish him well in all other respects except this one.

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

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I thank the gentleman from Kentucky for his well wishes. I will remember all those other respects.

I would say to the gentleman from Kentucky and to the gentleman from West Virginia that we are doing what both the authorizing committees that he has referred to have asked for. In fact, we are not cutting one penny of the amount that was authorized by these committees. We are simply suggesting that when we add an additional $25 million that has not been authorized by any committee, that that clearly violates the rules of the House.

We would look to the National Weather Service to operate within the budget that is appropriately due them under those rules. There is nothing specified in these cuts as to where Weather Service offices would be closed or where personnel might be cut back. That is something that would have to be determined by future legislation and by future action of that agency and so no Member should fear that this cut will take place in their particular congressional district or in their particular State.

I would also suggest that the rules of the House are very clear that the appropriating committee has three alternatives when presented with an authorization. They either accept that authorization, they can reduce it, or they can eliminate it. But they are not under the rules of this House authorized to increase it by $25 million. It is particularly important that we observe that in this very, very difficult fiscal time when we are having budget deficits in excess of $250 billion a year and a national debt in excess now of $4.5 trillion.

Mr. Chairman, I urge my colleagues to vote in favor of this amendment and show some fiscal responsibility.

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

I would just submit that every Member who is voting on this amendment should be concerned about the effect of a $25 million cut on the Weather Service across this Nation and certainly on the Weather Service in their geographical area.

I would submit that the gentleman ought to be concerned about it, because as I said, Lynchburg is going to be one of those areas that is going to be subject to these cuts.

Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Massachusetts [Mr.

STUDDS], chairman of the Committee on Merchant Marine and Fisheries.

Mr. STUDDS. Mr. Chairman, somebody mentioned A to Z. This is a perfect example of the problem with A to Z, because we would be faced with amendments and we would not know anything about them.

Let me say to the gentleman that the fact that he does not know the difference between a blue fish and a bluefin is a superb example of the problem here. I wish I had a blue fish. They are very hungry. They are very aggressive, and they are very mean. And one would immediately make it clear to the gentleman that he was not a bluefin tuna. Bluefin tuna are more placid, more gentle. They grew to 1,100 pounds.

A lot of people make their livelihood out of this. This is a very small item. I did not hear the gentleman from Illinois, who was complaining here earlier, complain about the millions of dollars we spend to support crops in Illinois. I have no problem with that. But one ought to know what one is talking about on the floor of this House.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Mr. Chairman, I would say to the gentleman that I know full well that we are talking about bluefin tuna. I was simply coming to the defense of the gentleman from Illinois and pointing out that it was the chairman's own committee report that referred to it as blue fish tuna. I think the gentleman from Illinois was acting in good faith in making that mistake in reliance upon the erroneous report.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the Goodlatte amendment to H.R. 4603, which would reduce the appropriation for the National Weather Service by $25 million.

Mr. Chairman, I would like to remind everyone about the critical importance of providing adequate funding for NOAA and the National Weather Service.

Just last year many of our colleagues witnessed firsthand the utter devastation brought on by the floods in the midwestern region of the United States. In recent years we have witnessed the brutality of Hurricanes ANDREW and INIKI; the winter "Storm of the Century" which pounded the eastern half of the United States and disrupted air transportation throughout the Nation; and this spring the Palm Sunday tornadoes that devastated areas in Alabama and Georgia.

Mr. Chairman, the out-of-date technologies currently employed by the National Weather Service continue to be the largest barrier to improving our understanding and forecasting of severe weather events.

The National Weather Service still relies on a number of vacuum tube radars installed around 1957. The communications and data processing equipment used by National Weather Service meteorologists is less capable than the current line of desk top computers. The United States in recent years has had to borrow a weather satellite from the Europeans as the last remaining United States Geostationary weather satellite was operated beyond its 5-year designed lifetime.

The National Weather Service is now well into a program to modernize its technology with new NEXRAD Doppler radars, the successful launch and deployment of the next generation Geostationary weather satellite—GOES–8—and the installation of new computers and automated systems.

That National Weather Service, however, cannot operate on equipment alone. It must depend upon the dedicated efforts of its highly skilled personnel, and the training and education needed for the operation of new technologies. The Goodlatte amendment strikes at the heart of that need by cutting National Weather Service personnel and training by $25 million.

Mr. Chairman, this amendment would result in closure of 44 part-time weather service offices in 30 states; reduce numerous other offices to part-time status; and require an NWS-wide furlough of some 16 days. Any one of these actions would put NOAA in violation of the service degradation and/or closure provisions of Public Law 102–567, the Weather Service Modernization Act of 1992.

In addition, the National Weather Service would be required to put on hold any additional modernization and restructuring related activity which provides the staffing and training for new NEXRAD radar offices.

Mr. Chairman, providing the funds necessary to modernize the National Weather Service clearly is an investment in America's future. It is an investment in life-saving equipment. It is also a wise economic investment.

In fact, a National Institute of Standards and Technology study conducted last year indicated that the economic benefits to the Nation of weather service modernization are about eight times greater than the costs. The study also shows that, once the modernized weather system is in place, we will realize benefits of over $7 billion primarily through efficiency gains in key industrial sectors of the U.S. economy, such as commercial aviation, agriculture, construction, communications, electric power generation, and manufacturing.

Mr. Chairman, I understand that Mr. GOODLATTE claims that the appropriation for the National Weather Service is $25 million over our authorization. The gentleman well knows that the authorization process has not been completed, and that the Senate has not yet acted, on the NOAA Authorization bill passed by the House of Representatives last year. That bill, which passed the House several months before this year's budget was submitted by the President, did not fully anticipate the staffing and training requirements which would result from maintaining all existing weather offices while new modernized offices are brought into operation, as required by Public Law 102-567. Obviously, I cannot guarantee that the House would have authorized the full Presidential request had we acted earlier this year rather than last year. But I think that this is very likely what would have happened.

Mr. Chairman, I urge my colleagues to oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. Goodlatte].

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

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1517

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have responded. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. GOODLATTE. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to 16 U.S.C. 1456a, not to exceed $7,800,000, for purposes set forth in 16 U.S.C. 1456a(b)(2).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $52,000,000, to remain available until expended: *Provided*, That subject to the availability of appropriations provided in advance for these purposes, the Secretary of Commerce is granted approval to enter into a contract with Florida State University which shall: (1) provide the University with funds to assist in the construction and associated expenses, including parking, of a meteorological sciences building on its Tallahassee, Florida, campus; and (2) include a space agreement with the University at no cost to the Government, other than for operational expenses, for space in this building for use as the Weather Forecast Office: *Provided further*, That if the Secretary of Commerce determines that the property that was transferred to the United States by the City of Clovis, California, by a deed dated November 20, 1984, for use as a weather forecasting office, is no longer needed for such use, title to that property, and improvements thereto, shall revert to the City of Clovis, California.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair, construction, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $23,040,000, to remain available until expended.

Mr. MOLLOHAN. (during the reading). Mr. Chairman, I know of no amendment until page 48, line 4. Therefore, I ask unanimous consent that the remainder of the bill through page 48, line 3, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The text of the bill, through page 48, line 3, is as follows:

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $459,000.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,273,000 to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $999,000 to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100-627) and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $400,000, to remain available until expended.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $36,510,000: *Provided*, That of the offsetting collections credited to this account, $17,000 are permanently canceled.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $16,900,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $141,272,000: *Provided*, That of the offsetting collections credited to this account, $225,000 are permanently canceled.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $142,576,000, to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $48,615,000, to remain available until September 30, 1996: *Provided:* That of the offsetting collections credited to this account, $2,000 are permanently canceled.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

There is hereby established the Economics and Statistics Administration Revolving Fund which shall be available without fiscal year limitation. For initial capitalization, there is appropriated $1,677,000 to the Fund: *Provided*, That the Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by 15 U.S.C. 1525-1527 and, notwithstanding 15 U.S.C. 4912, charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account as offsetting collections, to be available for carrying out these purposes without further appropriation.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms to include a grant of $9,000,000 for the National Textile Center University Consortium, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alternation, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $268,723,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply to carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $38,823,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $42,428,000, of which $30,300,000 shall remain available until expended.

The CHAIRMAN. Are there any amendments to that portion of the bill up to page 48, line 3?

If not, the Clerk will read the next paragraph.

The Clerk read as follows:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 501, 3702 and 3703, including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for official representation expenses abroad; $17,907,000, to remain available until expended: *Provided*, That none of the funds appropriated by this paragraph shall be available to carry out the provisions of section 203(a) of the International Travel Act of 1961, as amended: *Provided further*, That in addition to fees currently being assessed and collected, the Administration shall charge users of its services, products, and information, fees sufficient to result in an additional $3,000,000, to be deposited in the General Fund of the Treasury.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

□ 1520

Mr. DINGELL. Mr. Chairman, I raise a point of order against the provision beginning with the word "provided" on line 24, page 48, through the end of and including all of line 4, page 49.

The CHAIRMAN. The Chair will advise the gentleman that the word "provided" is on line 25, not line 24.

Mr. DINGELL. I am sorry. Line 25, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Minnesota [Mr. OBERSTAR] desire to be heard on the point of order?

Mr. OBERSTAR. Yes, Mr. Chairman.

Mr. DINGELL. Mr. Chairman, can I make the point of order before the gentleman from Minnesota responds?

The CHAIRMAN. The gentleman has made his point of order.

Mr. DINGELL. Mr. Chairman, I have not made it yet. The point of order is that the paragraph violates rule XXI, clause 2. It changes existing law by directing an agency to assess and collect user fees.

Mr. OBERSTAR. Mr. Chairman, the gentleman makes a point of order which I believe will be conceded knowing the rules as I do.

My question for the gentleman from Michigan is, the point of order he raises deals with fees to be collected by the U.S. Travel and Tourism Administration.

Mr. DINGELL. That is correct.

Mr. OBERSTAR. The U.S. TTA has been ordered to collect these fees, these user fees, but has never been able to do so because it has been ruled that U.S. TTA as a subagency of the Department of Commerce does not have the authority to collect fees though the Department of Commerce has authority to collect fees.

The question is, the gentleman objects to the Committee on Appropriations directing U.S. TTA to collect such fees, but will the gentleman then move legislation to give such authority, framing it however the gentleman wishes to do, to collect those fees and help this agency do its very substantial and useful job of bringing tourism into the United States?

Mr. DINGELL. If the gentleman will recall, the Committee on Energy and Commerce reported out legislation which dealt with this question which was ruled to be unconstitutional. We are still trying to figure out ways of addressing that particular question and it is, I want to observe with a great sense of sorrow that I rise to raise this point of order because my dear friend, the gentleman from West Virginia, who like all the rest of our good members in the Committee on Appropriations loves to legislate.

The CHAIRMAN. The Chair is dubious that this last conversation relates to the point of order.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I concede the point of order.

The CHAIRMAN (Mr. BROWN of California). The gentleman concedes the point of order. The point of order is accepted, and the proviso is stricken.

AMENDMENT OFFERED BY MOLLOHAN

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

The Clerk read as follows:

Amendment offered by Mr. MOLLOHAN: On page 48, line 21 of the bill, strike the sum "$17,907,000" and insert in lieu thereof "$14,907,000".

Mr. MOLLOHAN. Mr. Chairman, this amendment is necessary in order to keep the bill within the 602(b) allocation. The gentleman's point of order puts us above the 602(b) allocation. I look forward to working with the gentleman from Michigan, the distinguished chairman of the Committee on Energy and Commerce, in resolving this issue for the U.S. TTA as the bill progresses.

Mr. Chairman, I ask adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $88,329,000, to remain available until expended, to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided*, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

TECHNOLOGY ADMINISTRATION UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $10,000,000, of which not to exceed $2,000,000 shall remain available until September 30, 1996.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

For expenses necessary to implement the American Technology Preeminence Act, $12,000,000, to remain available until expended: *Provided*, That of the offsetting collections credited to this account, $140,000 are permanently canceled.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $21,056,000, to remain available until expended: *Provided*, That of the offsetting collections credited to this account, $2,000 are permanently canceled.

PUBLIC BROADCASTING

FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $26,000,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided*, That not to exceed $2,200,000 shall be available for program administration as authorized by section 391 of said Act: *Provided further*, That notwithstanding the provisions of section 391 of said Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further*, That notwithstanding the provisions of sections 391 and 392 of the Communications Act, as amended, not to exceed $700,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 50, line 19, strike "$26,000,000" and insert "$24,000,000".

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close is 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] will be recognized for 5 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill contains $26 million for planning and construction grants for public television, radio, and nonbroadcast facilities. This is 8-percent above fiscal year 1994 and it is about $2 million higher than 1994. This is almost 1½ times President Clinton's budget request. The budget request was $10.742 million. The Department of Commerce wants to scale back this program. We have a $4.5 trillion national debt, the deficit this year is going to be approximately $244 billion, and the deficit in about another 3 or 4 years is going to be over $400 billion. We must establish priorities. This is one area where we can save some money. We are not cutting back on the President's request. Originally I was going to propose an amendment to cut back what President Clinton wanted spent for this program. We decided not to do this because a lot of people feel this is very important. However, we do believe that it is reasonable to cut this back to the fiscal year 1994 budgetary request which was $24 million, so we can save $2 million here and it is not going to hurt a thing.

Mr. Chairman, I hope all of my colleagues will see fit to support this amendment.

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

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

Mr. Chairman, I rise in opposition to the gentleman's amendment to cut the public broadcasting facilities, planning and construction program by $2 million. This is an excellent program. It is a competitive matching program that funds the construction, repair and replacement of public broadcasting facilities and extends, very importantly, Mr. Chairman, public radio and television signals to areas that are underserved or unserved. It also helps to upgrade and preserve services offered in existing stations. It is targeted to those areas that are underserved and have a very difficult time marshaling the resources to get on line with public radio and public television.

It is a partnership that works, Mr. Chairman. The Federal contribution leverages millions of dollars in private funds. The committee has received many requests from Members asking that this program be funded at the $35 million level, an amount included in a pending authorization bill.

□ 1530

I urge a "no" vote on the Burton amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I likewise rise in opposition to the amendment in spite of the good friendship of mine with the mover.

I oppose the amendment, Mr. Chairman, because it would cut money from the bill that has funds for the public telecommunications and facilities program which primarily would benefit the more rural parts of the country. This program is critical to good-quality public broadcasting in rural and underserved areas, not the cities. We are talking about the underserved areas here.

This is a public-private partnership which has allowed the Federal Government to leverage a small amount of Federal dollars to create a $1.8 billion information infrastructure for the rest of the country. We cannot afford to jeopardize that investment by not maintaining the infrastructure.

This amendment would damage the maintenance and upgrading of this infrastructure. It would hit rural and poor areas especially hard, resulting in cutbacks in many of the stations around the country.

Mr. Chairman, in 1994 there were 325 applications for moneys under this program filed for a total of $97 million, and we were only able to fund, I think it was 24 million dollars' worth. This would keep us at that level in spite of the zooming applications for funds.

So I would hope that we would reject the amendment and be able to properly fund public broadcasting in the rural and poorer parts of the country.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

First of all, we are not cutting below last year's level. The President requested $10.7 million for this program. That was a dramatic cut.

My original amendment I was going to propose would cut it back to what President Clinton asked for, but we received a lot of phone calls from people who expressed their concern about public broadcasting. We said, OK, let us just cut it back to last year's level. That is only a $2 million cut.

If we did what President Clinton wanted to do, we would cut it in half. We would cut it more than in half, from $26 million down to $10.7 million.

This is not a draconian cut. This is reasonable. It is just taking it back to last year's level.

So if it is so important that this be funded at the level the chairman and ranking Republican thinks it should be funded at, then why is it the President of the United States said it should only be funded at $10.7 million?

I say to my colleagues this is a reasonable cut. It is not going to cut into the muscle and bone of the Public Broadcasting System. It is going to confine it to last year's spending level, and with the budget deficit being what it is, with the fiscal problems facing this Nation what they are, it seems to me it is reasonable to make a cut of only $2 million.

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

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

I would point out this reduction of funding would bring down the level to that of 1980, $24 million, 15 years ago, without taking into account even inflation. The need for this program, the demand, is substantially more than we have appropriated.

Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Chairman, our distinguished subcommittee chairman makes a very important point here. The number of applications, the possible worthy uses of these funds every year, far exceed the annual appropriation.

For example, in 1993 the agency received 305 applications totaling $77 million. This year so far we are talking about 325 applications totaling $97 million. So the need is out there.

This modest appropriation also leverages a great deal of money from other sources. Our experience in North Carolina is perhaps typical of this where an award amount of $864,000 last year helped us meet a total project cost of over $2 million. Funds from other sources, public and private, helped us stretch the Federal grant and maximize its impact.

This is a modest appropriation, Mr. Chairman, and it should not be reduced further, for it is money well spent.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, Let me conclude then by saying this is not a draconian cut. We are only cutting it back to last year's funding level. It is only $2 million. We are not cutting back to what President Clinton requested we do, which was $10.7 million, which is about a $13 million cut. This is reasonable.

I understand there is a need for public broadcasting, but to take it beyond last year's levels right now is fiscally irresponsible.

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

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

Mr. Chairman, I urge opposition to the amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

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

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote and pending that, I make the point of order a quorum is not present.

The CHAIRMAN. The gentleman makes a point of order a quorum is not present. The Chair will count for a quorum.

Does the gentleman insist on his point of order?

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Is the gentleman going to be able to get a vote if he does withdraw his point of order, a recorded vote?

The CHAIRMAN. While the chair is now counting for a quorum, the chair observes 25 members standing.

Mr. BURTON of Indiana. I withdraw my point of order, and I thank the gentleman.

Mr. SOLOMON. Does the Chair think there are 25 Members here?

The CHAIRMAN. The point of no quorum has been withdrawn, a sufficient number having arisen, a recorded vote is ordered.

Mr. SOLOMON. You realize our nose is out of joint after that last episode.

The CHAIRMAN. The Chair apologizes if he miscounted.

Mr. SOLOMON. Your apology is accepted.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my point of order and thank my colleague, the gentleman from New York.

The CHAIRMAN. A sufficient number having arisen, a recorded vote is ordered.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 230, not voting 53, as follows:

[Roll No. 279]

AYES—156

Allard	Geren	Moorhead
Archer	Gilchrest	Myers
Armey	Gillmor	Nussle
Bachus (AL)	Gingrich	Orton
Baker (CA)	Glickman	Oxley
Ballenger	Goodlatte	Parker
Barca	Goss	Paxon
Barcia	Grams	Penny
Barrett (NE)	Grandy	Petri
Barrett (WI)	Greenwood	Porter
Bartlett	Gunderson	Portman
Barton	Hancock	Poshard
Bentley	Hansen	Quillen
Bereuter	Hastert	Ramstad
Bilirakis	Hefley	Ravenel
Blute	Herger	Roberts
Boehner	Hobson	Rohrabacher
Bonilla	Hoekstra	Ros-Lehtinen
Bunning	Hutchinson	Roth
Burton	Hutto	Royce
Buyer	Hyde	Santorum
Calvert	Inglis	Saxton
Camp	Inhofe	Schaefer
Canady	Inslee	Schiff
Castle	Istook	Sensenbrenner
Coble	Johnson (GA)	Shaw
Collins (GA)	Johnson, Sam	Shays
Combest	Kasich	Shuster
Condit	Kennedy	Slattery
Cooper	Kim	Smith (MI)
Coppersmith	Kingston	Smith (NJ)
Costello	Klug	Smith (TX)
Crane	Knollenberg	Snowe
Crapo	Kolbe	Solomon
DeLay	Kreidler	Spence
Diaz-Balart	Kyl	Stearns
Dickey	Laughlin	Stenholm
Doolittle	Lazio	Stump
Dornan	Levy	Sundquist
Dreier	Lewis (KY)	Swett
Duncan	Lightfoot	Talent
Dunn	Linder	Taylor (MS)
Ehlers	Livingston	Taylor (NC)
Emerson	Lucas	Thomas (CA)
Everett	Machtley	Thomas (WY)
Ewing	Manzullo	Torkildsen
Fawell	McCrery	Upton
Fowler	McHugh	Walker
Franks (CT)	McKeon	Weldon
Franks (NJ)	Meyers	Wolf
Gallo	Molinari	Young (FL)
Gekas	Montgomery	Zimmer

NOES—230

Abercrombie	Cantwell	Dicks
Ackerman	Cardin	Dingell
Andrews (TX)	Carr	Dixon
Applegate	Chapman	Dooley
Bacchus (FL)	Clay	Durbin
Baesler	Clayton	Edwards (CA)
Barlow	Clement	Edwards (TX)
Bateman	Clinger	Engel
Becerra	Clyburn	English
Beilenson	Coleman	Eshoo
Berman	Collins (IL)	Evans
Bilbray	Conyers	Farr
Bliley	Coyne	Fazio
Boehlert	Cramer	Fields (LA)
Bonior	Cunningham	Filner
Borski	Danner	Fish
Boucher	Darden	Flake
Brooks	de la Garza	Foglietta
Browder	de Lugo (VI)	Frank (MA)
Brown (CA)	DeFazio	Frost
Brown (OH)	DeLauro	Furse
Bryant	Dellums	Gallegly
Byrne	Derrick	Gejdenson
Callahan	Deutsch	Gephardt
Gibbons	Martinez	Sanders
Gilman	Matsui	Sangmeister
Gonzalez	Mazzoli	Sarpalius
Goodling	McCurdy	Sawyer
Gordon	McDade	Schenk
Green	McDermott	Schroeder
Hall (OH)	McHale	Schumer
Hall (TX)	McInnis	Scott
Hamburg	McKinney	Serrano
Hamilton	McNulty	Sharp
Harman	Meek	Shepherd
Hefner	Menendez	Sisisky
Hinchey	Mfume	Skaggs
Hoagland	Mica	Skeen
Hochbrueckner	Michel	Skelton
Holden	Miller (CA)	Slaughter
Horn	Mineta	Smith (IA)
Houghton	Minge	Spratt
Hoyer	Mink	Stark
Huffington	Moakley	Stokes
Hughes	Mollohan	Strickland
Jacobs	Moran	Studds
Jefferson	Morella	Stupak
Johnson (CT)	Murtha	Swift
Johnson (SD)	Nadler	Synar
Johnson, E. B.	Neal (MA)	Tanner
Johnston	Neal (NC)	Tauzin
Kanjorski	Norton (DC)	Tejeda
Kaptur	Oberstar	Thornton
Kennelly	Obey	Thurman
Kildee	Olver	Traficant
King	Ortiz	Tucker
Kleczka	Packard	Unsoeld
Klein	Pallone	Valentine
Klink	Pastor	Velazquez
Kopetski	Payne (NJ)	Vento
LaFalce	Payne (VA)	Visclosky
Lancaster	Pelosi	Volkmer
Lantos	Peterson (FL)	Vucanovich
LaRocco	Peterson (MN)	Walsh
Leach	Pickett	Watt
Levin	Pickle	Waxman
Lewis (CA)	Pomeroy	Wheat
Lewis (GA)	Price (NC)	Whitten
Lipinski	Rahall	Williams
Lloyd	Reed	Wilson
Long	Regula	Wise
Lowey	Roemer	Woolsey
Maloney	Rogers	Wyden
Mann	Romero-Barcelo (PR)	Wynn
Manton	Rowland	Yates
Margolies-Mezvinsky	Roybal-Allard	Young (AK)
Markey	Sabo	

NOT VOTING—53

Andrews (ME)	Hastings	Quinn
Andrews (NJ)	Hayes	Rangel
Baker (LA)	Hilliard	Reynolds
Bevill	Hoke	Richardson
Bishop	Hunter	Ridge
Blackwell	Lambert	Rose
Brewster	Lehman	Rostenkowski
Brown (FL)	Lewis (FL)	Roukema
Collins (MI)	McCandless	Rush
Cox	McCloskey	Smith (OR)
Deal	McCollum	Thompson
Faleomavaega (AS)	McMillan	Torres
Fields (TX)	Meehan	Torricelli
Fingerhut	Miller (FL)	Towns
Ford (MI)	Murphy	Underwood (GU)
Ford (TN)	Owens	Washington
Gutierrez	Pombo	Waters
	Pryce (OH)	Zeliff

□ 1558

The Clerk announced the following pairs:

On this vote:

Mr. Deal for, with Mr. Rangel against.

Mr. Hunter for, with Mr. McCollum against.

Mr. Lewis (FL) for, with Mr. Quinn against.

Mr. Miller (FL) for, with Mr. Hastings against.

Mrs. Roukema for, with Mr. McCloskey against.

Mr. Smith (OR) for, with Mr. Towns against.

Mr. GALLEGLY changed his vote from "aye" to "no."

Messrs. CALVERT, ROBERTS, SLATTERY, and BEREUTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $70,000,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided*, That not to exceed $5,000,000 shall be available for program administration and other support activities as authorized by section 391 of said Act: *Provided further*, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further*, That notwithstanding the requirements of section 392(a) and 392(c) of such Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 51, line 10, strike "$70,000,000" and insert "$48,000,000".

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes and that the time be equally divided between the gentleman from Indiana [Mr. BURTON] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I do not have an objection to limiting the time, but I think, if we could limit it to 15 minutes, 7½ minutes on each side, we may not use all of that, but it would be better.

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will yield, I accept the time allocation offered by the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Then the unanimous consent request will be for limiting time for debate on this amendment to 15 minutes equally divided.

Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. BURTON] for 7½ minutes.

Mr. BURTON of Indiana. Mr. Chairman, this bill contains $70 million for information infrastructure grants, and that is $44 million, over 1½ times what it was last year, in fiscal year 1994.

That is almost $30 million below the President's budget request. He wanted even more. Last year Congress appropriated only $26 million for this grant program, and this year it is $70 million. That is a 169 percent increase in one year.

□ 1600

Now, I am aware of the opportunities that will be created by the new information superhighway. The new telecommunications technology is exciting and its something that the Federal Government should support. However, we have a $4.5 trillion national debt and our kids are going to be saddled with this. The interest on the national debt alone is one of the largest expenditures in the budget.

The deficit for this year, as I said before, is going to be approximately $244 billion. If we do not do something pretty quick, it is going to climb to almost $420 billion in the next three to four years. Therefore, the Federal Government's role in building the information superhighway will have to be more limited than some of us would like.

Now, I am not sure we should be spending money on some of these demonstration projects listed on page 71 of the committee report either. Since my amendments in the past, Mr. Chairman, to freeze funding for various programs at previous years' levels, as the previous amendment was supposed to freeze at last year's level, have not been supported by the House, I am simply proposing to reduce this $44 million increase by half, so there will still be a $22 million increase if my amendment passes.

I hope all Members heard that. If my amendment passes, this will still be $22 million above last year's level. Under my amendment, funding will be almost $48 million, or an increase over last year of 85 percent. Now, that has to be reasonable. We are almost doubling the appropriation from last year. We can still save the taxpayer $22 million and do something for the information superhighway.

So I hope my colleagues will see fit to support this amendment. It is reasonable and fiscally prudent.

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

Mr. MOLLOHAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, the goal of the National Information Infrastructure Initiative is to ensure that all Americans have access to affordable information and telecommunications technology. I emphasize all Americans. Also, this is a key provision in President Clinton's investment initiative and it will assist in bringing enhanced communications services across the country, including low-income inner cities and rural residences.

Mr. Chairman, this is an extremely important item. Investing now in national information infrastructure will ensure that the United States does not become a nation of information have's and have not's. The National Information Infrastructure demonstration grants will serve as models to help spread the benefits of technologies in such critical areas as health care, education, and other social services, and spur overall growth of the information superhighway.

There are lots of entities that have the ability to access the information highway. There are lots that do not. These grants are targeted to those that do not have the resources to utilize this critical technology.

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

Mr. ROGERS. Mr. Chairman, do I have time reserved in the debate?

Mr. MOLLOHAN. Mr. Chairman, the gentleman has half of my time. That is part of my unanimous consent request.

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 3¾ minutes.

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

Mr. Chairman, I rise in opposition to the amendment that my good friend offers.

Mr. Chairman, I am opposed to the amendment because this program is the one that will fund, if we fund them at all, distance learning operations which affect the rural parts of the country for such things as health initiatives for economic development work for all sort and manner of information on the new information highway.

Without these kinds of grants, and I think this is a modest figure in the bill for a national program, without these grants, rural parts of this country will not be able to afford to tie in to the Nation's information highway, especially on health matters.

So I would hope that we would defeat the amendment. I realize the gentleman is well-intentioned in his amendment, and he is a good friend who offers good advice all the time, except this one instance. I am asking that the gentleman's amendment be defeated.

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

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to say that every time we have an increase spending amendment, I hear the same thing. "This is the most important thing that has ever come before this body, and if we do not do it, the sky is going to fall." And people are running around like Henny Penny saying, "Oh, my gosh, this is the end of the world."

The fact of the matter is, the information superhighway is not going to stop. That is the wave of the future. And whether government does it or the private sector does it, the information superhighway is going to continue to move ahead at a rapid rate.

Now, we have severe deficit problems. It portends severe economic problems in the future if we do not get control of our appetite for spending.

I just said in a couple of my remarks the deficit this year is going to be almost a quarter of a trillion dollars. They said that this is going to be a big reduction year. It is not. There will be a $244 billion shortfall this year.

Now, the amendment I am proposing is not cutting back the last year's level. Last year's level we spent $26 million for the information superhighway. This would be an increase of 169 percent if we pass the proposal made by the committee.

I am just trying to reduce it to half of that. This is going to be an 85 percent increase, if my amendment passes.

I hope everybody is getting that. If my amendment passes, you are still increasing spending by 85 percent. You are still increasing spending by $22 million over last year. This is not a cut. It is merely reducing the amount of the increase by $22 million.

So I say to my colleagues, if you believe we ought to spend more money on the infrastructure of the information superhighway, fine. You are going to get a $22 million increase if my amendment passes. But we do not need to increase it by 169 percent over last year.

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

Mr. MOLLOHAN. Mr. Chairman, I yield 1¼ minutes to the gentleman from North Carolina [Mr. PRICE], a distinguished member of the subcommittee.

Mr. PRICE of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

This initiative is one of the most important in the Department of Commerce that our bill will fund this year.

Last year, $26 million was appropriated for this program for the first time. That $26 million has generated over 7,000 inquiries to the National Telecommunications and Information Administration [NTIA], and NTIA expects from 1,000 to 1,500 applications to result from the inquiries.

Forty percent of the funds have been earmarked by NTIA for planning grants; 60 percent for demonstrations.

The purpose of the high allocation for planning is to encourage a wide range of entities—States, regions, municipalities, nonprofit organizations—and a wide range of applications, for example, hospitals, schools, libraries, governments—in rural, suburban, and urban settings across the United States.

Now, in fiscal year 1995, we are responding to the President's request to move this program forward with a generous increase for projects to demonstrate the enormous possibilities of the information superhighway.

This is an important investment, and just as the statistics for the limited fiscal year 1994 funds demonstrate the overwhelming interest in this endeavor, we can expect a similar outpouring of demand as we provide the funds to move from the planning to the operational stage.

I can't think of a better application of penny wise and pound foolish than the Burton amendment which cuts this level of funding.

This is a program where we want to encourage a wide variety of efforts to make America's economy more productive, to put information to use in our daily lives, and to bring the power of modern technology to bear in ways we can only dream of now.

To cut back on this commitment—which has been made after significant work by our subcommittee in a very tight budget year—would be to take a step backward in our economic, technical, and social progress.

I strongly oppose the amendment, and I urge the committee to sustain the level of funding provided by the committee.

Mr. MOLLOHAN. Mr. Chairman, I am very pleased to yield 1½ minutes to the very distinguished gentleman from Massachusetts [Mr. MARKEY], the knowledgeable chairman of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the chairman of the subcommittee and the ranking minority member.

Mr. Chairman, this is a very central part of our ability to move to this new era where we capture the benefits of this telecommunications computer software revolution and ensure that it becomes accessible, not only to the wealthy, but to those who are in rural America, to those who are in the most isolated parts of our country.

□ 1610

A large part of this funding is going to be levering the applications that are going to come in from across the country to try to figure out how we are going to bring distance learning to the most rural parts of the country; how are we going to bring telemedicine, that is, how are we going to bring the consultations from Stanford and from Harvard Medical School into the most remote communities of the United States?

That is what these grants are all about. Right now we expect 800 million dollars' worth of leverage that this 70 million dollars' worth of grants will unleash in terms of investment in these kinds of projects. This ensures that the promise of the information superhighway just does not reach to the wealthy streets in the best communities in America but also to those parts of the country with those kinds of services which I think are the glittering promise of the information superhighway. That is, how with learning, with health care, with information we give it to every part of the country from inner cities to the most distant rural hamlet.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

I would like to ask the gentleman a question, if I may. Could the gentleman tell me, last year it was $26 million. This year it is a $70 million request. Can the gentleman give us a rough idea what we are looking at down the road next year and the following year as far as requests for moneys?

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, as the years go by, we expect this to be phased out. In these initial years, where the technologies are new and the concepts are new, we are trying here to create a mechanism by which we focus upon that part of the superhighway discussion which most likely will go unattended to, which is the rural American part of it, how we serve the inner city.

We do not have a specific amount that we are contemplating next year. To tell the gentleman the truth, the administration proposed $150 million in this year's budget. It is down to $70 million. But over time, this will be phased out because we expect for the market system to ultimately devise mechanisms, once we have identified and proven the ability for these technologies to reach these isolated problem areas.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman.

Let me just reclaim my time and finish my discussion.

We have so many programs that are going to require more and more money as the years go by. They are all very worthwhile. And we do not seem to prioritize around here. And as a result, at some point in the future, we are going to reach a point of severe diminishing return on the entire investment of this Government.

It is estimated that the national debt will get to $7 trillion, maybe $8 trillion in the next 5 to 6 years. If it gets to that point, the interest alone on the national debt is going to be the largest expenditure that we have. We are going to saddle our kids and our grandkids with a budgetary problem that will be insolvable. So we have to prioritize. I have proposed amendments, over the years, time and time again, to cut out programs and trim programs that reduced them to last year's spending level. Every time we see those amendments go down.

This one allows for a $22 million increase over last year or an 85-percent increase over last year. It would save the taxpayers $22 million and help reduce this runaway Federal debt or deficit.

It appears as though we are falling on deaf ears again. I just would like to say to my colleagues, the information superhighway is going to go forward whether we make this cut or not. There is no doubt about it. That is the wave of the future. But can we continue to support these huge increases in program after program after program, running this country into debt to such a degree that we will never dig ourselves out and our kids will suffer? I hope not. I think not.

I would just like to say to my colleagues, this is going to be an 85-percent increase if my amendment passes. It is a $22 million increase if my amendment passes, but it will save the taxpayers $22 million over what the committee proposes. It is a good amendment. I urge it pass.

Mr. ROGERS. Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

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

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 227, not voting 51, as follows:

[Roll No. 280]

AYES—161

Allard	Dickey	Hutchinson
Archer	Doolittle	Hutto
Armey	Dornan	Hyde
Bachus (AL)	Dreier	Inglis
Baker (CA)	Duncan	Inhofe
Ballenger	Dunn	Inslee
Barca	Edwards (TX)	Istook
Barcia	Ehlers	Jacobs
Barrett (NE)	Everett	Johnson (CT)
Barrett (WI)	Ewing	Kaptur
Bartlett	Fawell	Kasich
Barton	Fowler	Kim
Bentley	Franks (CT)	King
Bereuter	Franks (NJ)	Kingston
Bilirakis	Gallegly	Klug
Boehlert	Gallo	Knollenberg
Boehner	Gekas	Kreidler
Bonilla	Gilchrest	Kyl
Browder	Gillmor	Lazio
Bunning	Gilman	Leach
Burton	Gingrich	Levy
Buyer	Glickman	Lewis (FL)
Callahan	Goodlatte	Lewis (KY)
Calvert	Goodling	Linder
Camp	Goss	Lucas
Canady	Grams	Machtley
Castle	Greenwood	Mann
Coble	Gunderson	Manzullo
Collins (GA)	Hancock	McCrery
Combest	Hansen	McHugh
Condit	Hastert	McInnis
Costello	Hefley	McKeon
Crane	Herger	Meyers
Crapo	Hobson	Mica
Cunningham	Hoekstra	Michel
DeLay	Horn	Minge
Diaz-Balart	Huffington	Molinari

Moorhead
Morella
Nussle
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Porter
Portman
Poshard
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Taylor (MS)
Taylor (NC)
Thomas (WY)
Torkildsen
Traficant
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zimmer

NOES—227

Abercrombie
Ackerman
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Bateman
Becerra
Beilenson
Berman
Bilbray
Bliley
Blute
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Cooper
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Emerson
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Grandy
Green
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kolbe
Kopetski
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Price (NC)
Quillen
Rahall
Reed
Roemer
Rogers
Romero-Barcelo (PR)
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swift
Synar
Tanner
Tauzin
Tejeda
Thomas (CA)
Thornton
Thurman
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—51

Andrews (ME)
Andrews (NJ)
Baker (LA)
Bevill
Bishop
Blackwell
Brewster
Brown (FL)
Collins (MI)
Cox
Deal
Faleomavaega (AS)
Fields (TX)
Fingerhut
Ford (MI)
Ford (TN)
Gutierrez
Hastings
Hilliard
Hoke
Hunter
Johnson, Sam
Lambert
Lehman
McCandless
McCloskey
McCollum
McMillan
Meehan
Miller (FL)
Murphy
Owens
Pombo
Pryce (OH)
Quinn
Rangel
Reynolds
Richardson
Ridge
Rose
Rostenkowski
Roukema
Rush
Smith (OR)
Thompson
Torres
Torricelli
Towns
Washington
Waters
Zeliff

□ 1635

The Clerk announced the following pairs:

On this vote:

Mr. Miller of Florida for, with Mr. McCloskey against.

Mrs. Roukema for, with Mr. Quinn against.

Mr. Smith of Oregon for, with Mr. Rangel against.

Mr. LIVINGSTON changed his vote from "aye" to "no."

Ms. KAPTUR changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

For expenses necessary to carry out the provisions of the National Endowment for Children's Educational Television Act of 1990, title II of Public Law 101-437, including costs for contracts, grants and administrative expenses, $2,500,000, to remain available until expended.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $338,524,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

AMENDMENT OFFERED BY MR. PENNY

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

The Clerk read as follows:

Amendment offered by Mr. Penny: Page 52, line 14, strike "$338,524,000" and insert "$270,819,000".

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes, and that my time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] will be recognized for 5 minutes, the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 2½ minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Minnesota [Mr. PENNY].

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

Mr. Chairman, this amendment is quite straightforward. It represents a 20-percent cut in the funding level for the Economic Development Administration.

Mr. Chairman, the EDA provides grants to State and local governments for public works, technical assistance and jobs programs as well as loan guarantees to firms for business development.

One criticism of the EDA is that Federal assistance should not be provided for activities whose benefits are primarily local and, therefore, whose responsibility should be that of State and local governments. In addition, EDA programs have been criticized, I think legitimately, for substituting Federal credit for private credit and facilitating the relocation of businesses from one distressed area to another through the competition among local communities for Federal funds. In other words, we underwrite with Federal dollars the establishment of a facility in one community because they have better grant writers than another community, and that makes no economic sense.

Mr. Chairman, the EDA has also been criticized for its broad eligibility criteria which allows areas containing over 80 percent of all the U.S. population to compete for these funds. If we were to target the EDA more narrowly on communities that are in desperate need of urban or rural development, I think the EDA Program would be more defensible. But in our desire to pork barrel spend all over the country, 80 percent of the country is now eligible for EDA grants, making this program highly dubious.

Mr. Chairman, this level of funding reduction would not eliminate the program but it would send a very strong

signal that we are determined to see this program more carefully targeted and better utilized. We offered this 20 percent reduction for the EDA as a part of the Penny-Kasich package last November.

I would urge favorable consideration of the amendment today.

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

Mr. MOLLOHAN. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE], chairman of the Subcommittee on Economic Development of the Committee on Public Works and Transportation.

Mr. WISE. Mr. Chairman, I thank the gentleman from West Virginia for yielding me the time.

The gentleman from West Virginia, chair of the subcommittee, has done a masterful job in his debut this year as chairman of this committee in bringing out a very, very important bill.

Basically in responding to the gentleman from Minnesota, I would first point to this chart, and this chart shows the EDA as it has evolved from 1966 in 1993 dollars. Its high was almost $1.5 billion, to 1995 when it is $365 million. Indeed, the last 10 years combined do not equal the first 2 years of funding.

No. 2, in terms of eligibility, the EDA while technically as the gentleman from Minnesota notes could apply to 80-some percent of the country, in truth and administratively, it has not been applied that way and, indeed, this House has passed an authorization bill that would limit it to 45 percent of the country.

□ 1640

Let me also note that the gentleman's amendment would cut 20 percent of the EDA funding. The EDA bill that the gentleman from West Virginia has brought to the floor is already significantly below both the authorized level and several, many millions, below, $38 million below, the President's proposal.

I would urge rejection obviously of this amendment. If you have got a water system that you are trying to get to an industrial park to create jobs, it is the EDA that is the linchpin. If you are trying to save your community because of defense closing, who is it you call? You call the EDA. If you have had a flood recently such as the Mississippi in the Midwest, who is it you have gone to? You have gone to the EDA.

This is not the place to be cutting funds.

I would urge rejection.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Washington.

Mr. DICKS. This has been the most effective program in the Pacific Northwest over the last 26 years.

I commend the gentleman for his statement and rise in strong support of defeating the Penny amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding.

Since the beginning of EDA, this program has created or saved over 2 million jobs. Every year that EDA is in operation, the tax dollars generated by EDA-created jobs exceed the total the amount of money spent and invested in this program over the years.

Vote against the Penny amendment.

Mr. WISE. I urge rejection of the Penny amendment.

Mr. ROGERS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I am opposed to this amendment strongly. The EDA is a proven economic development and jobs program.

The House acknowledged that fact just last month when we passed overwhelmingly the EDA reauthorization bill by a vote of 328 to 69. This bill follows the intent of the House by funding all EDA programs at or below the House-passed authorization levels.

Many communities in this country are suffering from long-term distress, natural disasters, defense cutbacks, and what-have-you.

EDA gives these communities a helping hand, not a handout.

I might note the district of the gentleman from Minnesota, his own district just last year received almost $5 million from EDA for disaster assistance for help in recovering from the Midwestern floods. Surely, he would agree these communities need and deserve assistance, and, surely, he would also agree that an area like Floyd County in my district which has a 12-percent unemployment rate conservatively deserves assistance.

Because of an EDA grant, the county was able to attract 100 new jobs and an additional $1 million in annual revenue for the local economy.

A vote for the Penny amendment is a vote to ensure that these communities have less help and less hope.

I urge rejection of the amendment. Let us give these communities hope as well as some help.

Mr. PENNY. Mr. Chairman, I yield myself the balance of my time.

I would simply add in conclusion that the defense of this program is not surprising to me given the fact that 80 percent of America qualifies for assistance under this program.

Certainly, it has done some good in the years that it has been around. I question whether the program has done as much good as the appropriators would imply.

The appropriation level this year is over $300 million. The point has been made that this program is receiving far fewer funds than it received in its origin. I think that is clear evidence that in times of tighter and tighter budgets, this Congress has decided that this is one of the programs that could be reduced.

Clearly, budgets are not going to get any easier to deal with in the years ahead, and we ought to take those programs that have been reduced in recent years and follow that trend line down. It is a program that, frankly, could and should be canceled at some point. This is probably not the year to do that, but at least we ought to consider a 20-percent reduction as a way of signaling that an EDA program created some 30 years ago as part of a war on poverty does not suit or meet the needs of America in the 1990's.

I would again urge favorable consideration of the amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 30 seconds to the gentleman from South Carolina [Mr. CLYBURN], who as a freshman has distinguished himself by his hard work and effectiveness on the Committee on Public Works and Transportation.

Mr. CLYBURN. Mr. Chairman. I rise today in strong opposition to the amendment offered by my colleague, the gentleman from Minnesota.

The Economic Development Administration was established by Congress in 1965 as an agency to promote prosperity in economically deprived areas of the country. I represent a district which has many economically depressed areas which rely heavily upon the EDA, and other public agencies, for assistance in promoting job creation.

Mr. Chairman, infrastructure is essential to job creation in a manufacturing environment. Many communities in my State of South Carolina cannot meet the infrastructure requirements of manufacturers alone, and must rely on the EDA's assistance.

In addition, the EDA provides funding for regional planning assistance to identify local needs and priorities. Once again, many of the areas in my State rely upon these funds to undertake planning functions. The direct result of these planning activities is a more efficient and cost effective administration of local government.

Mr. Chairman, the appropriation for the Economic Development Administration is meager and inadequate at best. I strongly oppose any plan to reduce this much needed resource.

Mr. ROGERS. Mr. Chairman, I yield 1 minute, the balance of my time, to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, this amendment is well intentioned but ill advised.

Keep in mind that EDA is the one Federal agency which has as its sole mission helping communities create jobs. Keep in mind EDA has taken the lead in assisting communities suffering

adverse impacts by base closings and realignment. Keep in mind that EDA helps leverage private, State and local money, and the Federal share is less than 50 percent for most of these projects. EDA is the one Federal agency helping communities create jobs at a time when the Federal Government is the biggest disemployer of America. I would submit it has inadequate funds. To talk about a 25-percent cut, I think, would be draconian and contrary to the best interests of all across America that send us here to represent their interests and to try and expand jobs and opportunity for all Americans.

Ms. SNOWE. Mr. Chairman, I rise in opposition to the Penny Amendment to reduce funding for the Economic Development Administration [EDA] by 20 percent. EDA contributes significantly to economic growth and job expansion. Clearly, EDA fulfills a key function in providing State and local governments, nonprofit organizations, and public institutions with vital economic grants and technical assistance. EDA is vitally important to those who depend on its resources.

Over the years EDA has proven to be a valuable source of economic assistance for regions all over the United States. EDA provided a total of $301.8 million in 1993 to various organizations across the country. This assistance was in the form of public works grants to public and private nonprofit organizations and technical grants and assistance to enable communities and firms to find solutions to problems that inhibit economic growth.

EDA also provided planning grants to States, cities, districts, and Indian reservations and special economic adjustment assistance to help State and local governments solve recent and anticipated severe adjustment problems, including defense conversion assistance.

I know that my home State of Maine has benefited from EDA funding. Last year, EDA provided economic assistance for 12 projects in Maine totaling over $2.5 million. Some of these projects assisted with EDA funds include the expansion of the international and domestic arrivals terminals at Bangor International Airport and the Eastport cargo facilities. EDA assistance has helped finance Maine businesses and developed revolving loan fund programs, as well. In short, Maine, like many areas of the country, benefits tangibly from EDA resources.

The challenges of defense conversion are enormous, and EDA is an agency that is helping the Federal Government face those challenges by assisting industries, communities, and individuals adversely impacted by base closures and drastic cuts in defense spending.

Over 2 years ago, I introduced comprehensive legislation to assist the people of communities faced with the severe economic hardships caused by the closure of a major military installation, and the role of EDA was a fundamental component of that legislation.

EDA is actively involved in defense conversion efforts throughout the country. I recently introduced legislation that slightly amends the guidance for the EDA's defense conversion responsibilities dealing with funds authorized under defense bills. Currently, the EDA does not give any special preference to defense conversion projects. My legislation specifically directs EDA to "ensure that funds are reserved for communities identified as the most substantially and seriously affected by the closure or realignment of a military installation or the curtailment, completion, elimination, or realignment of a major defense contract or subcontract."

The State of Maine is the fourth highest recipient of defense sending per capita in the Nation, and defense is the State's third largest industry. But Maine has lost approximately 10,000 defense-related jobs since 1989, and there is a deep concern that thousands of additional jobs are threatened by continued reductions in defense spending. The opportunities afforded by EDA are absolutely critical for the long-term health of Maine's economy.

I believe that the Federal Government has the responsibility to provide the economic policies, tools, and incentives that are needed to stimulate both the economy and defense conversion initiatives. And the Economic Development Administration plays a vital role in fulfilling that responsibility.

Mr. Chairman, as we consider funding for EDA for the upcoming fiscal year, we cannot overlook its valuable contributions to communities all across this Nation. I hope my colleagues will join me in supporting sufficient funding for EDA and opposing the Penny amendment.

Mr. MINETA. Mr. Chairman, I rise in opposition to the gentleman's amendment to H.R. 4603, the Commerce, Justice, State, and related agencies appropriations bill for fiscal year 1995. However, before I discuss the specific provisions of the amendment, I would like to commend the chairman of the Appropriations Subcommittee, Mr. MOLLOHAN, and its ranking member, Mr. ROGERS, for their excellent work on this bill.

The amendment offered by the gentleman from Minnesota would reduce total funding in the bill for the Economic Development Administration by 20 percent, cutting $67.7 million from EDA program funds.

Just last month, the House expressed its overwhelming support for EDA by passing H.R. 2442, the Economic Development Reauthorization Act of 1994, by a vote of 328 to 89. That bill reflected a bipartisan agreement of members of both the Public Works Committee and the Committee on Banking, Finance and Urban Affairs and was strongly supported by Members on both sides of the aisle. For the first time in more than a decade, Congress expects to enact EDA authorization legislation.

The House-passed authorization bill also launches EDA on a new effort founded on reform, responsibility, efficiency, and accountability. Gone are the programs and approaches of old. Gone are the inefficient bureaucracies; gone are the archaic eligibility requirements; gone are the time-consuming and cumbersome approval processes; and gone are the exorbitant authorization levels. The House-passed bill addresses both the concerns of the past and enables EDA to meet current and future challenges, keep our industries competitive in global markets, and maintain our quality of life.

Today, the gentleman from Minnesota offers an amendment to cut these programs' appropriations by 20 percent or $68 million. H.R. 4603 appropriates a total of $338.5 million for EDA programs. These programs appropriations are well within the authorization levels of the House-passed bill. In addition, this bill appropriates $38 million less than the President's request. This bill is fiscally responsible.

At a time when the infrastructure of distressed communities is crumbling, this amendment would cut much-needed public works funds. At a time when communities need assistance to determine how to compete in the global market, this amendment would cut critical planning and technical assistance. At a time when defense bases are closing, this amendment would cut defense economic adjustment assistance.

Before we cut these programs without due consideration to the effect, let's provide EDA with an opportunity to ensure that our Nation's economic development program is second to none.

Mr. Chairman, I urge Members, especially the 328 Members who voted for the EDA bill, to vote "no" on the Penny amendment.

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to this amendment to cut funding for the economic development administration by 20 percent.

I can tell you that EDA has been a very effective program in the State of Mississippi. EDA has been a key factor in helping bring jobs and better opportunities to our State.

The grants and technical assistance provided by EDA have enabled rural communities in Mississippi to develop industrial parks that have been so important to attracting new business and industrial ventures. The money has helped build roads, develop water and sewer systems and fund other projects that could not have been produced without it.

In Mississippi, EDA has truly had a positive impact. Much progress has been made and I look forward to continuing to work with EDA in the future on projects that will bring jobs and more economic opportunity to States like mine.

I hope you will oppose this cutting amendment and allow EDA to keep up the good work it has been doing in Mississippi and across the country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110—noes 282, not voting 47, as follows:

[Roll No. 281]

AYES—110

Allard	Bereuter	Coble
Andrews (TX)	Bilirakis	Collins (GA)
Archer	Bliley	Combest
Armey	Boehner	Condit
Bachus (AL)	Bonilla	Cox
Baker (CA)	Brown (OH)	Crane
Ballenger	Bunning	Crapo
Barrett (NE)	Burton	Cunningham
Bartlett	Calvert	DeLay
Barton	Castle	Doolittle

Dornan	King	Packard
Dreier	Klug	Paxon
Duncan	Knollenberg	Penny
Dunn	Kolbe	Petri
Ehlers	Kyl	Porter
Ewing	Leach	Portman
Fawell	Levy	Ramstad
Fowler	Lewis (FL)	Roberts
Gallegly	Lewis (KY)	Rohrabacher
Gingrich	Linder	Roth
Goodlatte	Livingston	Royce
Goss	Lucas	Schaefer
Grams	Mann	Sensenbrenner
Greenwood	Manzullo	Shays
Hancock	Margolies-Mezvinsky	Smith (MI)
Hansen	McInnis	Smith (TX)
Hastert	McKeon	Solomon
Hefley	Meyers	Stearns
Hoagland	Mica	Stenholm
Hoekstra	Michel	Stump
Huffington	Miller (FL)	Talent
Hyde	Molinari	Thomas (WY)
Inglis	Moorhead	Walker
Inhofe	Morella	Weldon
Istook	Nussle	Wolf
Kasich	Oxley	Young (FL)
Kim		Zimmer

NOES—282

Abercrombie	Engel	Klein
Ackerman	English	Klink
Applegate	Eshoo	Kopetski
Bacchus (FL)	Evans	Kreidler
Baesler	Everett	LaFalce
Barca	Farr	Lancaster
Barcia	Fazio	Lantos
Barlow	Fields (LA)	LaRocco
Barrett (WI)	Filner	Laughlin
Bateman	Fish	Lazio
Becerra	Flake	Levin
Beilenson	Foglietta	Lewis (CA)
Bentley	Frank (MA)	Lewis (GA)
Berman	Franks (CT)	Lightfoot
Bilbray	Franks (NJ)	Lipinski
Blute	Frost	Lloyd
Boehlert	Furse	Long
Bonior	Gallo	Lowey
Borski	Gejdenson	Machtley
Boucher	Gekas	Maloney
Brooks	Gephardt	Manton
Browder	Geren	Markey
Brown (CA)	Gibbons	Martinez
Bryant	Gilchrest	Matsui
Buyer	Gillmor	Mazzoli
Byrne	Gilman	McCrery
Callahan	Glickman	McCurdy
Camp	Gonzalez	McDade
Canady	Goodling	McDermott
Cantwell	Gordon	McHale
Cardin	Grandy	McHugh
Carr	Green	McKinney
Chapman	Gunderson	McNulty
Clay	Hall (OH)	Meek
Clayton	Hall (TX)	Menendez
Clement	Hamburg	Mfume
Clinger	Hamilton	Miller (CA)
Clyburn	Harman	Mineta
Coleman	Hayes	Minge
Collins (IL)	Hefner	Mink
Collins (MI)	Herger	Moakley
Conyers	Hinchey	Mollohan
Cooper	Hobson	Montgomery
Coppersmith	Hochbrueckner	Moran
Costello	Holden	Murtha
Coyne	Horn	Myers
Cramer	Houghton	Nadler
Danner	Hoyer	Neal (MA)
Darden	Hughes	Neal (NC)
de la Garza	Hutchinson	Norton (DC)
de Lugo (VI)	Hutto	Oberstar
DeFazio	Inslee	Obey
DeLauro	Jacobs	Olver
Dellums	Jefferson	Ortiz
Derrick	Johnson (CT)	Orton
Deutsch	Johnson (GA)	Pallone
Diaz-Balart	Johnson (SD)	Parker
Dickey	Johnson, E. B.	Pastor
Dicks	Johnston	Payne (NJ)
Dingell	Kanjorski	Payne (VA)
Dixon	Kaptur	Pelosi
Dooley	Kennedy	Peterson (FL)
Durbin	Kennelly	Peterson (MN)
Edwards (CA)	Kildee	Pickett
Edwards (TX)	Kingston	Pickle
Emerson	Kleczka	Pomeroy
Poshard	Shepherd	Thurman
Price (NC)	Shuster	Torkildsen
Quillen	Sisisky	Traficant
Rahall	Skaggs	Tucker
Ravenel	Skeen	Underwood (GU)
Reed	Skelton	Unsoeld
Regula	Slattery	Upton
Roemer	Slaughter	Valentine
Rogers	Smith (IA)	Velazquez
Romero-Barcelo (PR)	Smith (NJ)	Vento
	Snowe	Visclosky
Ros-Lehtinen	Spence	Volkmer
Rowland	Spratt	Vucanovich
Roybal-Allard	Stark	Walsh
Sabo	Stokes	Waters
Sanders	Strickland	Watt
Sangmeister	Studds	Waxman
Santorum	Stupak	Wheat
Sarpalius	Sundquist	Whitten
Sawyer	Swett	Williams
Saxton	Swift	Wilson
Schenk	Synar	Wise
Schiff	Tanner	Woolsey
Schroeder	Tauzin	Wyden
Schumer	Taylor (MS)	Wynn
Scott	Taylor (NC)	Yates
Serrano	Tejeda	Young (AK)
Sharp	Thomas (CA)	
Shaw	Thornton	

NOT VOTING—47

Andrews (ME)	Hastings	Quinn
Andrews (NJ)	Hilliard	Rangel
Baker (LA)	Hoke	Reynolds
Bevill	Hunter	Richardson
Bishop	Johnson, Sam	Ridge
Blackwell	Lambert	Rose
Brewster	Lehman	Rostenkowski
Brown (FL)	McCandless	Roukema
Deal	McCloskey	Rush
Faleomavaega (AS)	McCollum	Smith (OR)
	McMillan	Thompson
Fields (TX)	Meehan	Torres
Fingerhut	Murphy	Torricelli
Ford (MI)	Owens	Towns
Ford (TN)	Pombo	Washington
Gutierrez	Pryce (OH)	Zeliff

□ 1709

The Clerk announced the following pairs:

On this vote:

Mrs. Roukema for, with Mr. Hastings against.

Mr. Smith of Oregon for, with Mr. Deal against.

Mr. BROWN of Ohio and Mr. SHAYS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. UNSOELD) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, had come to no resolution thereon.

REPORT ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. MURTHA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 103–562) on the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. McDADE reserved all points of order on the bill.

□ 1710

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The motion was agreed to.

□ 1710

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House of the State of the Union for the further consideration of the bill H.R. 4603, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Minnesota [Mr. PENNY] had been disposed of, and the bill had been read through page 53, line 9.

The Clerk will read.

The Clerk read as follows:

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $32,205,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding

31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Of the budgetary resources available to the Department of Commerce during fiscal year 1995, $12,355,000 are permanently canceled.

(b) The Secretary of Commerce shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purpose of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

AMENDMENT OFFERED BY MR. GOODLATTE

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

The Clerk read as follows:

Amendment offered by Mr. GOODLATTE:

Page 56, after line 2, insert the following new section:

SEC. 207. The amount otherwise provided in this title for "National Oceanic and Atmospheric Administration—Operations, Research, and Facilities" is hereby reduced by $26,059,999.

Mr. GOODLATTE. Mr. Chairman, I will be brief. I would like to call the attention of the Chair to the fact that this is an amendment similar to an amendment offered earlier on which we were not afforded the opportunity to have a recorded vote. This amendment reduces the NOAA budget by $26 million, including $300,000 for Atlantic bluefin tuna research, fishery observer training in the amount of $120,000, and $500,000 for the North American Institute for Environmental Renewal. None of these programs have been authorized by the appropriate authorizing committee. In addition, it provides for reduction in the National Weather Service by in excess of $25 million, which is over the amount appropriated.

This is not a specific cut in the National Weather Service. This is simply the amount that was authorized by the authorizing committee of $453 million. This amendment is offered for the purpose of making it clear that the Committee on Appropriations should not violate the rules of the House. That committee is authorized under the rules to accept the amounts from the authorizing committee, to cut those amounts, or to not fund the program, but they are not authorized for increased amounts.

This amendment is supported by the Citizens for a Sound Economy and by Citizens Against Government Waste, as well as by the Pork Busters Coalition. I urge my colleagues to vote in favor of this amendment.

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

Mr. Chairman, this amendment, as the distinguished gentleman who sponsors it indicated, has been debated previous to this. We rose in opposition to it and pointed out the importance of this money to the National Weather Service and its staffing. I think the amendment has been fully debated.

We had an unintended result earlier where the gentleman did not get a vote. We certainly want him to have a vote on the amendment. I urge all my colleagues to vote nc on the Goodlatte amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment, as I did earlier. This amendment would cut $25 million from the National Weather Service, the modernization program, which we have been fighting for for these several years. Congress has invested over $1 billion in that modernization, and this amendment would jeopardize the program.

Mr. Chairman, there is nothing that we spend money for in the Federal Government that sometimes is more important than to inform our people that there is dangerous weather out there. It saves lives. So I hope that we would reject this amendment as being threatening to the modernization of the National Weather Service, which we have been into now for several years. With all due respects to my good friend who offered the amendment, I would hope that we would oppose it.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I would simply like to correct a statement I have been informed I made. The authorization for the National Weather Service is $354 million, and this is a $25 million reduction to the authorized level.

I thank the gentleman for yielding.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think we have had any amendments which ask for cuts being approved here this afternoon. And no matter what fancy language we may have, the authorizing committees have not authorized these expenditures. There is always some reason by someone that would justify unapproved spending. What can we do, if we cannot take some of these very simple little steps here, when we know that the rules have been broken, and then the rules are waived. And, as was said last week, I think when you come right down to it, as far as our rules are concerned, they are a compilation of waivers. Once in a while you have a rule which is not waived. The big surprise is when you enforce a rule once in a while.

I think that if we cannot at least in this instance, and if there is authorization, then obviously we would approve this, but if we cannot in this instance make this little cut, when can we? We know that in this century and in the next century we have absolutely no plans to balance the budget, none whatsoever, and we go cavalierly along and spend another unapproved $26 million, and a billion dollars here and a billion dollars there. It is just insane. The people who listen in cannot comprehend what we are doing.

□ 1720

I think this time maybe we can rise to the occasion and for the first time today say, "yes, we think we can make a cut here". If the authorizing committees are not that interested in this, I do not know why we should come to the rescue of the appropriation committees when they obviously are breaking the rules. It is bad enough that a freshman Congressman has to get on his feet and take the burden of passing an amendment when he should be able to simply stand up and say, "Ladies and gentlemen, I simply raise a point of order." That is what he should have been able to do. He has had to go through sheer hell to even get to this point, and I think we ought to back him up. One of these days, Congress must get serious about the deficits we are creating, year by year. Budgets and rules obviously mean very little to this body.

Mr. ROGERS. Mr. Chairman, I yield the balance of my time to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, let us talk about cutting this budget and especially NOAA. I do not know how many of my colleagues have flown in Alaska and how many of them have to rely on those weather stations that are reporting to each pilot that takes off with passengers. We do not have highways and stoplights in the majority area of Alaska. We have to fly everywhere, and we depend wholly upon that weather reporting.

To cut this amount of money after we already invested a considerable amount in it, to delete the staff which is necessary to run the equipment they have already appropriated for would be absolutely wrong. I just ask all of my colleagues, keep in mind an area as large as all the east coast put together, all the east coast put together plus six more States without any appropriate weather reporting when they fly.

This is an impossibility for the pilot. It is an imposition upon the passengers. And keep in mind, my predecessor, he is not here today because of the fact of flying in bad weather.

Let us not cut this money today. Let us keep in mind the areas which we represent and the challenges to each pilot and the passengers that fly in those airplanes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 128, noes 272, not voting 39, as follows:

[Roll No. 282]

AYES—128

Allard	Dornan	Johnson, Sam
Andrews (NJ)	Dreier	Kasich
Andrews (TX)	Duncan	Kim
Archer	Dunn	King
Armey	Edwards (TX)	Kingston
Bachus (AL)	Ehlers	Klug
Baker (CA)	Ewing	Knollenberg
Baker (LA)	Fawell	Kyl
Ballenger	Franks (CT)	Lantos
Bartlett	Franks (NJ)	Lazio
Barton	Gallegly	Leach
Bliley	Gallo	Levy
Boehlert	Gilman	Lewis (KY)
Boehner	Goodlatte	Linder
Bonilla	Goodling	Mann
Bunning	Goss	Manzullo
Burton	Grams	Margolies-Mezvinsky
Calvert	Grandy	McCrery
Camp	Greenwood	McHugh
Canady	Gunderson	McInnis
Castle	Hancock	McKeon
Coble	Hansen	Meyers
Collins (GA)	Harman	Mica
Combest	Hastert	Michel
Condit	Hoagland	Miller (FL)
Cooper	Hoekstra	Minge
Coppersmith	Horn	Molinari
Cox	Hunter	Moorhead
Crane	Hutchinson	Nussle
Crapo	Hyde	Orton
DeLay	Inglis	Oxley
Dickey	Inhofe	Paxon
Doolittle	Istook	Payne (VA)
Penny	Royce	Stenholm
Petri	Santorum	Stump
Porter	Schaefer	Sundquist
Portman	Sensenbrenner	Swett
Poshard	Shays	Talent
Ramstad	Shuster	Upton
Roberts	Smith (MI)	Walker
Rohrabacher	Smith (TX)	Weldon
Roth	Solomon	Wilson
	Stearns	Zimmer

NOES—272

Abercrombie	Gibbons	Moran
Ackerman	Gilchrest	Morella
Applegate	Gillmor	Murtha
Bacchus (FL)	Gingrich	Myers
Baesler	Glickman	Nadler
Barca	Gonzalez	Neal (MA)
Barcia	Gordon	Neal (NC)
Barlow	Green	Norton (DC)
Barrett (NE)	Hall (OH)	Oberstar
Barrett (WI)	Hall (TX)	Obey
Bateman	Hamburg	Olver
Becerra	Hamilton	Ortiz
Beilenson	Hayes	Packard
Bentley	Hefley	Pallone
Bereuter	Hefner	Parker
Berman	Herger	Pastor
Bilbray	Hinchey	Payne (NJ)
Bilirakis	Hobson	Pelosi
Blute	Hochbrueckner	Peterson (FL)
Bonior	Holden	Peterson (MN)
Borski	Houghton	Pickett
Boucher	Hoyer	Pickle
Brooks	Huffington	Pomeroy
Browder	Hughes	Price (NC)
Brown (CA)	Hutto	Quillen
Brown (OH)	Inslee	Rahall
Bryant	Jacobs	Ravenel
Buyer	Jefferson	Reed
Byrne	Johnson (CT)	Regula
Callahan	Johnson (GA)	Richardson
Cantwell	Johnson (SD)	Roemer
Cardin	Johnson, E. B.	Rogers
Carr	Johnston	Romero-Barcelo (PR)
Clay	Kanjorski	Ros-Lehtinen
Clayton	Kaptur	Roukema
Clement	Kennedy	Rowland
Clinger	Kennelly	Roybal-Allard
Clyburn	Kildee	Sabo
Coleman	Kleczka	Sanders
Collins (IL)	Klein	Sangmeister
Collins (MI)	Klink	Sarpalius
Conyers	Kolbe	Sawyer
Costello	Kopetski	Saxton
Coyne	Kreidler	Schenk
Cramer	LaFalce	Schiff
Cunningham	Lambert	Schroeder
Danner	Lancaster	Schumer
Darden	LaRocco	Scott
de la Garza	Laughlin	Serrano
de Lugo (VI)	Lehman	Sharp
DeFazio	Levin	Shaw
DeLauro	Lewis (CA)	Shepherd
Dellums	Lewis (FL)	Sisisky
Derrick	Lewis (GA)	Skaggs
Deutsch	Lightfoot	Skeen
Diaz-Balart	Lipinski	Skelton
Dicks	Livingston	Slattery
Dingell	Lloyd	Slaughter
Dixon	Long	Smith (IA)
Dooley	Lowey	Smith (NJ)
Durbin	Lucas	Snowe
Edwards (CA)	Machtley	Spence
Emerson	Maloney	Spratt
Engel	Manton	Stark
English	Markey	Stokes
Eshoo	Martinez	Strickland
Evans	Matsui	Studds
Everett	Mazzoli	Stupak
Farr	McCurdy	Swift
Fazio	McDade	Synar
Fields (LA)	McDermott	Tanner
Filner	McHale	Tauzin
Fish	McKinney	Taylor (MS)
Flake	McNulty	Taylor (NC)
Foglietta	Meek	Tejeda
Fowler	Menendez	Thomas (CA)
Frank (MA)	Mfume	Thomas (WY)
Frost	Miller (CA)	Thompson
Furse	Mineta	Thornton
Gejdenson	Mink	Thurman
Gekas	Moakley	Torkildsen
Gephardt	Mollohan	Traficant
Geren	Montgomery	Tucker
Underwood (GU)	Vucanovich	Wise
Unsoeld	Walsh	Wolf
Valentine	Waters	Woolsey
Velazquez	Watt	Wyden
Vento	Waxman	Wynn
Visclosky	Wheat	Yates
Volkmer	Whitten	Young (AK)
	Williams	Young (FL)

NOT VOTING—39

Andrews (ME)	Gutierrez	Rangel
Bevill	Hastings	Reynolds
Bishop	Hilliard	Ridge
Blackwell	Hoke	Rose
Brewster	McCandless	Rostenkowski
Brown (FL)	McCloskey	Rush
Chapman	McCollum	Smith (OR)
Deal	McMillan	Torres
Faleomavaega (AS)	Meehan	Torricelli
Fields (TX)	Murphy	Towns
Fingerhut	Owens	Washington
Ford (MI)	Pombo	Zeliff
Ford (TN)	Pryce (OH)	
	Quinn	

□ 1744

The Clerk announced the following pair:

On this vote:

Mr. Deal for, with Mr. Rangel against.

Mr. BUYER and Mr. HOBSON changed their vote from "aye" to "no."

Mr. LAZIO, Mr. MANN, and Ms. HARMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FINGERHUT. Mr. Speaker, due to business in my district I was unavoidably detained in returning to the Capitol today. As a result, Mr. Speaker, I missed several votes.

Had I been present for rollcall No. 279, I would have voted "aye."

Had I been present for rollcall No. 280, I would have voted "no."

Had I been present for rollcall No. 281, I would have voted "no."

Had I been present for rollcall No. 282, I would have voted "no."

PERSONAL EXPLANATION

Mr. TORRES. Mr. Chairman, I was unavoidably detained on official business earlier today and had to miss roll call votes on the floor of the House.

Had I been present, I would have voted "no" on roll call votes 279, 280, 281, and 282.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. UNSOELD) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and

agencies for the fiscal year ending September 30, 1994, and for other purposes, had come to no resolution thereon.

POSTPONEMENT OF VOTES ON AMENDMENTS TO TITLE V OF H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Madam Speaker, I ask unanimous consent that during further consideration of H.R. 4603 the Chairman of the Committee on the Whole may, after consultation with the chairman and ranking minority member of the Committee on Appropriations or their designees postpone until a time during further consideration a request for a recorded vote on any amendment to title V of the bill, and reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes.

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

Mr. ROGERS. Madam Speaker, reserving the right to object, and only for the purpose of verification because I do not intend to object, do I understand from my chairman that during the consideration only of title V would we be given the opportunity to reserve the votes on those amendments until some further time in the bill?

Mr. MOLLOHAN. Madam Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Madam Speaker, the gentleman is correct, and the gentleman would also have a veto over consideration of those votes.

Mr. ROGERS. Do I understand correctly, further reserving the right to object, that during title V, if we wanted to have an immediate vote on that particular amendment, we could request that?

Mr. MOLLOHAN. At the gentleman's election.

Mr. ROGERS. Then at what time would the clustered vote take place, at the conclusion of title V?

Mr. MOLLOHAN. It would be anticipated to take place at the conclusion of title V. Again, the gentleman has the right of veto over that.

Mr. ROGERS. And at that time when the votes take place, the first vote would be at least 15 minutes, and any successive votes would be under 5-minute notice, is that correct?

Mr. MOLLOHAN. Under the request.

Mr. ROGERS. Madam Speaker, I have no further reservation and I agree to the proposal.

Madam Speaker, I withdraw my reservation of objection.

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

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that when the House adjourn today, it adjourn to meet at 9:30 a.m. tomorrow.

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

Mr. SOLOMON. Reserving the right to object, Madam Speaker, and I would not intend to object, but just for clarification, I ask this of the majority leader: Tomorrow, being Tuesday, morning hour is normally on the floor, and I assume the gentleman is moving that up. There will still be morning hour, and we would go into regular session at 11 a.m.; is that correct?

Mr. GEPHARDT. Madam Speaker, will the gentleman yield?

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

Mr. GEPHARDT. The gentleman is correct.

Mr. SOLOMON. Madam Speaker, that sounds very reasonable. I thank the gentleman.

Madam Speaker, I withdraw my reservation of objection.

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

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS, 1994

Mr. MOLLOHAN. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4603), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for those departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion was agreed to.

□ 1748

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. 4603, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Virginia [Mr. GOODLATTE] had been disposed of.

The Clerk will read.

The Clerk read as follows:

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, $24,157,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,000,000, of which $260,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $13,438,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $11,685,000.

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,330,147,000 (including the purchase of firearms and ammunition); of which not to exceed $14,454,000 shall remain available until expended for space alteration projects; of which not to exceed $11,000,000 shall remain available until expended for furniture and furnishings related to new space alteration for furniture and construction projects, and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

□ 1750

AMENDMENT OFFERED BY MR. VISCLOSKY

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

The Clerk read as follows:

Amendment offered by Mr. VISCLOSKY: On page 57, line 23, strike $2,330,147,000 and insert in lieu thereof $2,323,455,000.

Mr. VISCLOSKY. Mr. Chairman, I rise today to offer an amendment along with my colleague from Florida, Mr. YOUNG. However, before I explain my amendment, I would like to express my sincere gratitude to Mr. MOLLOHAN and Mr. ROGERS for the contributions they have made to this effort. This bill, among other things, recognizes that the Federal judiciary must begin to participate as an equal branch of the Federal Government in our collective efforts to control Federal spending. I commend the gentlemen for their attention to this issue.

As you know, last year, in an effort to reduce spending, President Clinton pledged to reduce the size of the Federal Government. While substantial progress is being made to reduce the size of the executive and legislative branches of Government, little attention has been focused on the third branch of our Government, the judiciary. Between fiscal years 1984 and 1993, staffing within the judiciary increased from 17,271 to 27,887 positions—a 62-percent increase.

The executive and legislative branches of our Government are in the process of work force downsizing. These personnel cuts are painful, but reflect the fiscal realities the Federal Government faces. To date, the judicial branch of our Government has managed to avoid having to make the tough choices being made in other branches. I recognize that the judiciary faces an increasing workload, but so do the other branches of Government. Like Government everywhere, the judiciary employs administrative and support staff. Instead of requesting increases in the size of the Federal judiciary in the form of more administrative staff, the judiciary should be following the example of the other branches of Government by making judicious reductions.

Mr. Chairman, this amendment is a simple one. It reduces by 1 percent the judiciary account for district clerks of court. The amendment would make a small deduction from the account for clerks, a total of $6.962 million. This would eliminate approximately 45 full-time equivalent [FTE] employees out of a staff of approximately 4,500.

We are reducing the clerks of the U.S. District Courts by 1 percent because overall workload statistics for U.S. District Courts reveal that the number of case filings has remained relatively stable for the better part of 10 years. Between 1987 and 1992, there was an increase of only 400 cases filed in U.S. District Courts; 265,234 cases versus 265,612 cases. With the judiciary's drive toward increased automation and more efficient paperwork procedures, I believe that this amendment is a reasonable step to reduce unnecessary staff. Greater efficiency must be achieved in support operations in the judiciary. This amendment will help streamline judicial branch staff and achieve more efficiency.

I would now like to take a moment to touch upon a specific staffing practice within the judiciary that concerns me, which, while not directly addressed by this amendment, demonstrates the need for increased congressional oversight of judicial staffing practices.

In January 1994, the Administrative Office of the U.S. Courts announced that there were a total of 674 overtarget positions within the judiciary. These are employees who were employed in excess of required staffing formula levels. They are considered to not be necessary for the continued operation of the judiciary.

Even though the AOC has finally begun the process of eliminating those overtarget positions, considerable concern remains regarding the overall revision of workload staffing formulas, which, in some instances, have not been modernized or updated from between 5 to 14 years.

The amendment offered by Mr. YOUNG and myself is needed because the judiciary should no longer be allowed to ignore the fiscal realities the Federal Government faces. This amendment is a reasoned, well thought-out step in the right direction. It is a small step. However, every little step adds up, and this step is in the direction that we absolutely must go.

The fundamental goal of this amendment is to bring attention to the fact that current employment trends in the judicial branch are inconsistent with the Federal Government's changing policies regarding personnel levels. Over the past 15 years, the total number of legislative branch employees has actually dropped by 8.6 percent. At the same time, employment in the executive branch has increased by 3.3 percent and employment in the judicial branch has risen by 97.5 percent. A 97.5-percent increase over the last 15 years. This is clearly illustrated by this chart. The bar on the left represents the increases in staffing levels of the judiciary over the last 15 years.

The legislative branch is taking a cut. The executive branch is taking a cut. These are tough cuts. We cannot allow the judiciary branch to avoid needed administrative reforms simply because they do important work. We all do important work. Our workload here in Congress certainly hasn't gotten any lighter. But we are still doing our share to reduce the cost of Government.

The American people are being asked to sacrifice to ensure that our country remains on track. The Federal Government has taken on the task of matching that sacrifice, and we have the obligation to ensure that scarce Federal resources are used wisely and fairly across all three branches of Government. I urge the adoption of this amendment.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my colleague the gentleman from Indiana [Mr. VISCLOSKY].

As he correctly points out, the American people are demanding that the Federal Government eliminate waste, fraud, and unnecessary bureaucracy in all Federal departments and agencies, including the judiciary. Through our work on the Appropriations Committee, we have made every effort to see that this is done in each of the appropriations bills we bring before the House this year. Congress has directed that sharp reductions be made in executive branch agencies and in our own legislative operations. The judiciary cannot be exempt from this effort.

There is no question that the judiciary can discharge its duties in a more efficient and cost effective manner. As my colleague from Indiana said before, staffing levels at the Department of Justice have risen by 62 percent in the past 10 years.

It is the responsibility of Congress and specifically the Appropriations Committee to decide the funding that will be made available to the judiciary each fiscal year. It is also the responsibility of the Congress to ensure that the American people have the greatest possible access to the courts.

As our colleague, the gentleman from Ohio [Mr. TRAFICANT], said so eloquently during debate last week, by authority of the Constitution, it is Congress that directs, and authorizes, where Federal courts will sit and the facilities they will use. Obviously, as with every Federal agency, there is consultation between the two branches of Government, but ultimately it is Congress that has the final authority to make these decisions.

Unfortunately, a tradition has seemed to evolve in which the courts have been left to decide where the courts will sit and in what facilities. The courts have been left to decide how many people they require to dispense justice and where they should be located.

The amendment today is a reaffirmation that Congress will make those decisions and that Congress is demanding that the judiciary join with the other two branches of the Federal Government to find a more efficient way to discharge their responsibilities.

It has long been my belief that the courts could operate more efficiently by bringing justice closer to the people. Rather than consolidate the court's operations in palatial facilities in a few select cities, court facilities should be established in those areas where the population and caseload demand.

This would not only make greater use of limited Federal resources but would also provide greater access and convenience for jurors, litigants, and attorneys who the courts are there to serve. It would be my hope, Mr. Chairman, that this amendment will send a message to the judiciary that Congress expects the courts to join the other branches of the Federal Government in finding ways to operate more efficiently—not only in the use of the time and resources of the Federal Government and employees, but in the use of the time and resources of the people the courts serve.

Mr. Chairman, I again want to compliment my colleague from Indiana for his work and research in this regard. We plan to work together in the months ahead to track the judiciary's effort to streamline their operations and ultimately bring justice closer to the people in the most efficient manner possible.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Indiana [Mr. VISCLOSKY] has cleared this amendment with the majority and the minority, and we accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,250,000 to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant was waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $250,000,000, to remain available until expended as authorized by 18 U.S.C. 3006(I): *Provided*, That not to exceed $19,800,000 shall be available to Death Penalty Resource Centers.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $56,000,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

AMENDMENT OFFERED BY MR. VISCLOSKY

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

The Clerk read as follows:

Amedment offered by Mr. VISCLOSKY: On page 59, line 17, strike $56,000,000 and insert in lieu thereof $62,692,000.

Mr. VISCLOSKY. Mr. Chairman, I rise today to offer an amendment along with my colleague, the gentleman from Florida [Mr. YOUNG]. This amendment would restore $6.692 million to the fund for Federal juries. Specifically, this money would go towards fees and allowances of (grand and petit) jurors and for the compensation of land commissioners and jury commissioners.

As you may know, in recent years Congress has had to reexamine funding for Federal jurors. Specifically, in 1989, Congress was forced to pass a supplemental appropriation which included a provision adding money to the fund for jurors. This emergency supplemental addressed a serious shortfall that occurred in the jury fee account.

For fiscal year 1995, the Committee has recommended $56 million for jury fees, which represents a reduction of $21 million from the fiscal year 1994 amount, and $18 million less than the President's budget request. The $6.692 million increase provided for by this amendment will help to ensure that additional supplemental appropriations for jurors will not be needed for fiscal year 1995.

I urge the adoption of this amendment.

Mr. MOLLOHAN. Mr. Chairman, I rise in support of the amendment.

Again, the gentleman has discussed this with the majority and the minority sides and both of us are in agreement to support this amendment. We rise in support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $97,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $46,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $18,828,000; of which $1,800,000 shall remain available through September 30, 1996, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $21,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $6,900,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $575,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,468,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers; *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

This title may be cited as "The Judiciary Appropriation Act, 1995".

TITLE IV—RELATED AGENCIES
DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $214,356,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $76,100,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies: *Provided further*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

READY RESERVE FORCE

(INCLUDING RESCISSION)

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and for related programs, $179,415,000, to remain available until expended: *Provided*, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

Of the amounts made available under this heading in Public Law 103-121, $27,000,000 are rescinded: *Provided*, That of the total amount rescinded, $9,000,000 shall be derived from amounts proposed to be reprogrammed from funds appropriated for Fleet Additions to Maintenance and Operations.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act of 1936, $25,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $2,000,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $1,494,000, to remain available until expended.

COMMISSION OF SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by section 5209 of the Omnibus Trade and Competitiveness Act of 1988, $1,000,000 to remain available until expended.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $1,320,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $20,949,000, of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 101-574, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $258,900,000; *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration; certain loan servicing activities; and installing and servicing the agency's computer-based electronic bulletin board: *Provided further*, That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriation. Of the total amount appropriated in this paragraph, $73,300,000 shall be available for grants for performance in fiscal year 1995 or fiscal year 1996 for Small Business Centers as authorized by section 21 of the Small Business Act, as amended: *Provided further*, That not more than $500,000 of the total amount in this paragraph shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse Centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act.

None of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee for the Small Business Development Center Program.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $8,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $8,500,000, and for the cost of guaranteed loans, $321,067,000, as authorized by 15 U.S.C. 631 note of which $30,000,000 shall be used to pre-pay the Federal Financing Bank for debentures guaranteed by the Administration pursuant to section 503 of the Small Business Investment Act: *Provided*, That such cost, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $97,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by Section 7(b) of the Small Business Act, as amended, $52,153,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided*, That none of the funds provided in this or any other Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the business area in which the disaster has occurred.

In addition, for administrative expenses to carry out the direct loan program, $78,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

In addition, for the cost of emergency disaster loans and associated administrative expenses, $125,000,000, to remain available until expended: *Provided*, That these funds, or any portion thereof, shall be available beginning in fiscal year 1995 to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Budget Enforcement Act of 1990: *Provided further*, That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D).

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $5,369,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 401. None of the funds provided by this Act for the Small Business Administration

may be used to guarantee any participating securities authorized by Public Law 102–366 until legislation has been enacted which directly or indirectly prohibits the filing of a petition under the Bankruptcy Code by a small business investment company licensed under subsection (c) or (d) of section 301 of the Small Business Investment Act of 1958 or regulations implemented to reduce risks of the Small Business Administration from companies licensed under section (c) or (d) of section 301 of the Small Business Investment Act of 1958.

SEC. 402. (a) Of the budgetary resources available to the Small Business Administration during fiscal year 1995, $1,021,000 are permanently canceled.

(b) The Administrator of the Small Business Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $415,000,000; of which $350,700,000 is for basic field programs, $9,390,000 is for Native American programs; $13,830,000 is for migrant programs; $1,435,000 is for law school clinics; $1,305,000 is for supplemental field programs; $870,000 is for regional training centers; $10,800,000 is for national support; $11,585,000 is for State support; $785,000 is for client initiatives; $1,145,000 is for the Clearinghouse; $655,000 is for computer assisted legal research regional centers; and $12,500,000 is for Corporation management and administration.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

SEC. 403. (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1995, pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area, shall be distributed in the following order:

(1) Grants from the Legal Services Corporation and contracts entered into with Legal Services Corporation under section 1006(a)(1) of the Legal Services Corporation Act, as amended, shall be maintained in fiscal year 1995 at not less than the annual level at which each grantee and contractor was funded in fiscal year 1994 pursuant to Public Law 103–121.

(2) 50 percent of new basic field funds shall be awarded to grantees and contractors funded at the lowest levels per-poor-person (calculated for each grantee or contractor by dividing each such grantee or contractor's fiscal year 1990 grant level by the number of poor persons within its geographical area under the 1990 census) so as to fund the largest number of programs possible at an equal per-poor-person amount.

(3) 50 percent of new basic field funds shall be allocated to grantees and contractors in an amount that is appropriate to the number of poor people in such grantee or contractor's service area as enumerated in the 1990 census.

(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) section 607 of Public Law 101–515, and that all funds appropriated for the Legal Services Corporation shall be subject to the same terms and conditions as set forth in section 607 of Public Law 101–515, except that the funding formulas and provisos 15, 20 and 22 shall not apply, and all references to "1991" in section 607 of Public Law 101–515 shall be deemed to be "1995", unless subparagraph (2) applies; and

(2) authorizing legislation for fiscal year 1995 for the Legal Services Corporation that is enacted into law.

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

Mr. MOLLOHAN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 74, line 17, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. Are there amendments or points of order to this portion of the bill?

If not, the Clerk will read.

□ 1800

The Clerk read as follows:

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration $1,703,000,000: *Provided*, That notwithstanding any other provision of law, during fiscal year 1995 the Secretary of State is authorized to charge a fee for processing passports on an expedited basis: *Provided further*, That in order to control workload demands on passport facilities, expedited passport processing will be available only to those applicants who can demonstrate and document the need to travel on an urgent basis and that such documentation would normally include already-purchased tickets and a formal itinerary: *Provided further*, That fees allocated under this provision shall be used to fund the cost of providing expedited passport processing and to enhance the quality and efficiency of consular services: *Provided further*, That the Secretary shall deposit such fees as an offsetting collection to this appropriation account, to remain available until expended, and shall expend not to exceed $18,000,000 in such fee collections during fiscal year 1995. Of the funds appropriated in this paragraph: not to exceed $3,000,000 shall be available for grants, contracts, and other activities to conduct research and promote international cooperation on environmental and other scientific issues; not to exceed $500,000 shall be available to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; $300,000 shall be available for recruitment of Hispanic American students and for the training of Hispanic Americans for careers in the Foreign Service and in international affairs; and not to exceed $300,000 shall be available to carry out the activities of the Office of Cambodian Genocide Investigations. None of the funds appropriated in this paragraph shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103–236.

AMENDMENT OFFERED BY MR. STEARNS

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

The Clerk read as follows:

Amendment offered by Mr. STEARNS: Page 75, line 5, strike "$1,703,000,000" and insert "$1,700,200,000".

Mr. STEARNS. Mr. Chairman, both the House and Senate of the U.S. Congress have gone on record on a matter of great concern to many Americans—ending the resettlement of Iraqi former prisoners of war in the United States. The fiscal year 1994 Defense authorization contained language expressing the sense of Congress that former Iraqi POW's should not be resettled in the United States, unless they directly helped American forces. That, according to State, would not apply to 4,000 persons eligible for resettlement.

Since 1991, American taxpayers have been resettling refugees from the Persian Gulf war. I have no objection to that. However, Americans do not believe that we should be resettling some of the soldiers who raped Kuwait and fought against our troops. And that is what we have been doing.

Using State Department statements that approximately 4,000 of the Iraqi refugees were true POW's, approximately 10 percent—or 400—of those refugees who have come to this country since 1992 would not fall into any of the groups whose entry into this country could be justified for any reason. On average, it costs $7,000 per refugee to conduct these resettlements.

And, in spite of the concerns raised by Congress, no significant safeguards to prevent entry of more former Iraqi soldiers have been implemented by the State Department.

This, in spite of the fact that, without an effort to match refugees' claims with military records, there is no information available to corroborate or disprove these claims, according to an informal review by the GAO.

At the same time, none of the other countries that participated in Operation Desert Storm or any of the Middle Eastern countries, whose survival the United States helped protect, have made any significant contribution to these resettlements.

I give great credit to the Scandinavian countries who have made substantial contributions in this regard. Iran,

for less humanitarian reasons, has also accepted several thousand refugees. But State Department claims that many countries have accepted these refugees are false. The total number of refugees from all other countries was only 150 persons through 1993.

This failure to influence other countries to contribute their fair share is another fact that upsets my constituents and many Members of this House. To the best of my knowledge, in spite of promises by the State Department, this situation has not improved.

This is a source of continuing frustration for those of us whose constituents have written and called to express their opposition to the policy of allowing Iraqi POW's to be resettled in this country. In the past year, Members of both houses of Congress have gone on record in the form of resolutions to stop these settlements.

The CHAIRMAN. The time of the gentleman from Florida [Mr. STEARNS] has expired.

(By unanimous consent, Mr. STEARNS was allowed to proceed for 2 additional minutes.)

Mr. STEARNS. Mr. Chairman, that has not worked. Thus, I think we need to take the next step today and make a symbolic cut in the State Department's budget to send this message.

My amendment would reduce the expenses for general administration of the State Department by $2.8 million. This is equal to the cost of resettling 400 former Iraqi POW's.

I have had some difficulty deciding where to offer this amendment. My goal has been to avoid cutting our foreign operations or State Department budget in any way that might cause real pain to innocent persons.

That ruled out some more directly related international activities such as refugee resettlement or international peacekeeping.

Thus, I come to the floor today to offer an amendment making a modest $2.8 million reduction in the operating budget of the U.S. State Department. This is just a fraction of 1 percent of this budget. I believe that such a small cut could be absorbed without doing any unintended harm to our diplomatic mission.

In fact, the committee report states that administrative flexibility is built into this budget so that funds may be shifted between accounts where necessary. This general administration account also includes $11.9 million made available for the Bureau of Refugee Programs, money not normally a part of this appropriations bill.

Passing the Stearns amendment will send two important messages to the State Department. First of all, it will show that Congress will require compliance with the wishes it expressed in both the Defense authorization and the Iraqi Claims Act. That is, that only former POW's who could prove they assisted the United States would be eligible for refugee status. This could be done by establishing a valid screening program that checks U.N. records against U.S. military records.

Second, it will prod the Department to pressure the United Nations and participating countries to assist in resettling the many legitimate refugees still in the Middle East. Most importantly, it will send a message to the State Department that the will of Congress on an issue cannot simply be ignored.

Americans throughout the country have demanded some type of action on this issue and almost 100 members of this body, Democrats and Republicans, have cosponsored the resolution I introduced calling for an end to these resettlements.

The least we can do is find a way to save, for the taxpayers, an amount equal to the cost of resettling former enemy soldiers. We owe it to the American people, and we especially owe it to our veterans who cannot understand how we are spending money on Iraqi POW's while we are cutting veterans programs.

That is what this amendment does, and I ask for your support.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 10 minutes, counting the time that the gentleman has already consumed. I will then use 2½ minutes and yield 30 seconds to the gentleman from Florida [Mr. STEARNS] to close.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN] for 3 minutes.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment. There are a number of substantive reasons to oppose it. I am advised that neither the Bush nor the Clinton administration have admitted into the United States any person whose admission would justify legitimate concern as expressed by the gentleman. It is my understanding that no Iraqi has resettled in the United States without demonstrating under U.S. law a well-founded fear of persecution.

□ 1810

I know that the screening process has been very thorough. It has been very exacting, and in both President Bush's and President Clinton's administrations this program has been carried forward with the utmost care.

While being able to make those substantive arguments against the gentleman's amendment is possible, I simply want to point out, Mr. Chairman, that I think this is the wrong bill for the gentleman to offer this amendment. He is proposing a cut to the Commerce-Justice-State bill, and this program is funded in the foreign operations appropriation bill. So, I implore my colleagues to note that the State Department operating accounts that the gentleman's amendment is directed at are not used to pay for resettlement costs of refugees.

So, I am repeating that while there might be a number of substantive arguments that can be made against this amendment, the one that I want to advance most strongly here is that this program is not funded in this bill. So, we are in the wrong ballpark on this.

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield my remaining 30 seconds to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I would say to the gentleman from West Virginia that we asked for a GAO audit of the policy at the State Department, and the State Department has compiled some detailed information about the former POW's who were admitted in fiscal year 1993, and this is the key sentence:

> Information to corroborate or disprove the refugee statements about these activities is not available.

The State Department could not provide it. It is not available, so it is not clear how they made a decision to allow these Iraqi POW's in, and I understand what the gentleman is saying, but this is symbolic, and it is important to the people and the veterans in this country that we take this money out and say, "Look, we are not going to resettle any more Iraqi POW's."

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, almost 2 months ago, my Democratic colleagues challenged Republicans to stop the resettlement of Iraqi soldiers into this country by offering a motion to recommit the Iraqi Claims Act with instructions to the committee to prohibit any more Iraqi POW's from being resettled. We met that challenge and offered a motion to recommit the bill. The language was changed and it passed unanimously.

Today, I rise again to challenge my Democratic colleagues to demonstrate that they agree with most Republicans, and most other Americans, to stop using taxpayer money to resettle former enemy prisoners of war from the Persian Gulf war.

I challenge my Democratic colleagues to support the Stearns amendment which will reduce $2.8 million from the State Department general administration account, which is the approximate amount that it cost the American taxpayer to resettle about 400 Iraqi enemy prisoners of war. I say approximate because to this date, we have not received a full accounting of this resettlement. The United States accepted a United Nations definition of refugee that included all Iraqis let in the Saudi Arabia camps, including all POW's. Since then, it has almost been impossible to find out

if a former Iraqi soldier did fire on our troops or contributed significantly to our side of the war.

We have heard from our constituents how appalled they are that this dangerous policy continues. We have heard from our veterans how betrayed they feel that they must pay for the cost of resettling former enemy soldiers while their own veteran programs face constant budgetary restraints. We have also heard from our military retirees who are furious that they must foot the bill of this unfair policy while their own cost of living raises are delayed. And last weeks report from the Department of Defense finding no connection between service in the gulf war and the illnesses facing many American veterans only add fuel to the fire.

To those who say it will hurt State Department operations, I say they have a choice. They can fund essential functions or they can continue to resettle Iraqi POW's. I wish we had the opportunity to direct the State Department, but that would be out of order ruled by the Parliamentarian. This may be our only opportunity to send a message to the State Department to express our outrage at the inadequate change of direction in policy.

I urge my colleagues to show the American people that we have heard them, and have listened. Vote for the Stearns amendment to the Commerce, State, and Justice appropriations bill.

The CHAIRMAN. All time for debate of the amendment offered by the gentleman from Florida [Mr. STEARNS] has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. STEARNS].

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

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

The CHAIRMAN. In accordance with the unanimous-consent request that was granted by the House earlier, the Chair will postpone further proceedings on the amendment offered by the gentleman from Florida [Mr. STEARNS] until a later time. That means that at a later time the gentleman's request will be pending.

Mr. STEARNS. Mr. Chairman, as I understand it, a recorded vote is not automatic. I will have to go through this again.

The CHAIRMAN. The Chair will announce to the gentleman when it is an appropriate time for him to protect his request. The Chair will not overlook the gentleman.

Mr. STEARNS. Well, Mr. Chairman, I am just worried that I will not be here.

Can I make a point of order that a quorum is not present and go through the whole procedure so it becomes an automatic vote so I will not have to depend upon my presence, my being here?

Mr. Chairman, I am just saying that I want to make sure that this is an automatic vote and that it is not a vote dependent upon my being here.

The CHAIRMAN. Some Member will have to make a point of no quorum pending the request for a recorded vote, and at that point the Chair will put the request in the usual fashion.

In other words, if enough Members stand, the gentleman will get a recorded vote. This will just expedite the proceedings.

Mr. MENENDEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I seek to engage in a colloquy with the distinguished gentleman from West Virginia [Mr. MOLLOHAN], chairman of the Appropriations Subcommittee on Commerce, Justice, State and Judiciary.

The State Department, Mr. Chairman, has the worst department of the executive branch in terms of solving its employment complaints. Hispanics, who represent almost 10 percent of America's population, represent less than 5 percent of the work force at the Department of State. They are also particularly underrepresented at the higher levels of State where only 10 Hispanic men and not one Hispanic woman served in the senior Foreign Service of over 850 and where only 2 ambassadors of over 160 are Americans of Hispanic descent. Of the $500,000 that was authorized for the recruitment of Hispanics in the Department of State authorization bill, the Appropriations Committee was only able to come up with $300,000. Since this was not a prejudicial cutback, would the chairman be willing to accede to a higher figure in the conference on this bill?

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. MENENDEZ. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Yes, the Chair will assure the gentleman it will make every effort to accommodate the gentleman on this matter during conference.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman from West Virginia [Mr. MOLLOHAN] for his willingness to cooperate.

Mr. MOLLOHAN. I thank the gentleman for his leadership in this matter and for bringing this matter to our attention today.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed $1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246); and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 502 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $385,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $23,850,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,780,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $9,579,000: *Provided*, That none of the funds appropriated in this paragraph shall be available to carry out section 101(b)(4)(A) of Public Law 103–236: *Provided further*, That of the funds appropriated in this paragraph, not to exceed $500,000 shall be available to carry out section 101(b)(4)(B) of Public Law 103–236.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $411,000,000 to remain available until expended as authorized by 22 U.S.C. 2696(c); *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies. Of the funds made available in this paragraph $92,864,000 shall be available for Maintenance of Buildings and Facility Rehabilitation.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e) $6,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by 22 U.S.C. 2671: *Provided*, That such costs, including the cost of modifying

such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $183,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $15,465,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $129,321,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $913,941,000, of which not to exceed $40,719,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed by the United States and the respective international organization: *Provided*, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure pursuant to section 401(a)(2) of Public Law 103-236 until a certification is made under section 401(b) of said Act: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that the remainder of title V through page 94, line 6, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. ROGERS. Mr. Chairman, reserving the right to object.

If I am not mistaken, does not the amendment of the gentleman from Illinois occur at page 91 of the bill, line 23?

Mr. MOLLOHAN. Mr. Chairman, I withdraw my unanimous-consent request.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BERMAN. Mr. Chairman, I understand that we are operating now under unanimous-consent request, as it applies to title V, in terms of rolling votes. How will that affect the ability to offer an amendment to any of the amendments that might be offered?

□ 1820

The CHAIRMAN. Would the gentleman restate his parliamentary inquiry?

Mr. BERMAN. The question is, we will now be proceeding to hear amendments to title V and rolling votes on any of the amendments where a vote is requested. If one wants to amend an amendment being offered to title V under this procedure, how would one do that and how would one get recognized?

The CHAIRMAN. As the Chair understands the situation, on an amendment to the amendment, the vote on that would still be postponed until the end of debate on other amendments to title V.

Mr. BERMAN. I have a further parliamentary inquiry. Could the Chair explain the order of votes on amendments? Are all votes on amendments being rolled? What is the first amendment that will be voted on when we go to a vote?

The CHAIRMAN. The only request that has been postponed following the Chair's announcement that there would be a rolling of the votes has been the amendment offered by the gentleman from Florida [Mr. STEARNS].

Mr. BERMAN. Mr. Chairman, is there any amendment which has been excluded from the unanimous consent to roll each vote?

The CHAIRMAN. No, not so far.

Mr. BERMAN. So what is the nature of the unanimous-consent request that was granted?

The CHAIRMAN. The unanimous-consent request was that the request for a recorded vote on amendments be postponed until the end of debate on further amendments to this title. This is to be done at the Chair's discretion, after consultation with the chairman and the ranking member of the appropriations subcommittee.

Mr. BERMAN. If I might make a last parliamentary inquiry, would it be in order after an amendment has been voted on, depending on the result of that amendment, to then offer an amendment, after all debate time has expired, to the next amendment, based on what had happened on an earlier amendment?

The CHAIRMAN. The chairman is informed by the parliamentarian that such a second degree amendment would not be in order, if the question had been put earlier on the first degree amendment and the voice vote announced.

AMENDMENT OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I ask unanimous consent to offer an amendment at page 78.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. YATES. Mr. Chairman, reserving the right to object, has the Clerk not read beyond that?

The CHAIRMAN. The problem is that we had passed that in the reading, and unanimous consent is required to go back to it. The Chair was inquiring if there was any objection to going back to this point. The gentleman did not present his amendment in a timely fashion or the Chair may have been at fault for this.

Mr. YATES. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the request of the gentleman from Washington [Mr. INSLEE] is agreed to.

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. INSLEE: Page 78, line 23, strike "$411,000,000" and insert "$396,000,000".

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes, and my time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

The CHAIRMAN. Is there objection to the question of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from Washington [Mr. INSLEE] will be recognized for 5 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 2½ minutes each.

The Chair recognizes the gentleman from Washington [Mr. INSLEE].

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

Mr. Chairman, I want to congratulate the chairman and the committee in its productive efforts to meet the targets that we have set. Now it is the responsibility of all of us on the floor to share the burden of wringing out from the overseas embassy funds a reasonable and realistic reduction to help in reaching the deficit reduction goals. For this reason, I am submitting to my colleagues an amendment to cut the State Department Acquisition and Maintenance of Buildings Abroad Fund by an amount equal to 3.5 percent of the proposed appropriation, a $15 million reduction.

This reduction is entirely consistent with our need to request our agencies to tighten their belts to some modest degree in light of today's deficit. I am convinced that this minimal reduction will not result in the collapse of our diplomatic efforts abroad for several reasons.

First, it represents a 1-percent cut below funds actually spent for building acquisition and maintenance last year. In other words, out of the $400 million actually spent for building acquisition and maintenance last year, this amendment will cut only $4 million.

Second, it is clear that the proposed budget does not simply maintain existing levels of security and floor space.

Besides a new embassy in Ottawa, the proposed funding level would permit various upgrades such as perimeter controls, new backup generators, and new shatter-proof windows. In short, this amendment will permit continuation of existing floor space with existing security levels and existing types of power supplies. It will not put at risk our existing infrastructure.

Third, this area of Government is important to our national interests, but it is not one where we have experienced an emergency need for funding, as we have in our criminal justice system and our immigration system. Simply put, this is an area that can tolerate some modest reduction without jeopardizing our national goals.

Fourth, this level of reduction is consistent with the type of cuts we have required of our other agencies.

Two and one-half million dollars for new security fences and other items in Copenhagen may be something that we can do at some point, but we have a current-known threat pounding on our door right now in the shape of the deficit.

Additional generators at a cost of $5 million for places like Buenos Aires to use in case of a blackout might be desirable, but our foreign policy has functioned alright without this backup. Our fiscal status is in a blackout mode, here, right now.

Simply put, we must recognize that our bigger deficit is in the budget, not in our embassies.

I commend this amendment to you.

Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from Washington [Mr. INSLEE]. As stated, the amendment reduces the budget of the U.S. State Department by $15 million, which is 3.5 percent of their budget for embassies abroad. I believe it is important to note, as sometimes gets lost, that this amendment reduces the State Department appropriation for acquisition and maintenance of buildings abroad. While this is a very modest sum, maybe some would say paltry for this branch of the Government, we as the voice of the American public need to make a statement by reducing the State Department's budget because of a continued desire from the American public to be fiscally responsible, both here and on foreign shores.

Mr. Chairman, I urge all my colleagues to not only do what is fiscally responsible, but also what is legislatively accountable. America needs accountability and responsibility in its foreign affairs, just as we do with domestic matters. So please join me and vote yes on the Inslee amendment.

Mr. INSLEE. Mr. Chairman, I yield the balance of my time to the gentleman from Wisconsin [Mr. BARCA].

The CHAIRMAN. The gentleman from Wisconsin [Mr. BARCA] is recognized for 1 minute.

Mr. BARCA. Mr. Chairman, I would strongly urge passage of this amendment. As was indicated, this represents a fairly modest scaleback in the acquisition and maintenance building budget, because $10 million last year was used for salaries and expenses, so actually it represents probably closer to about a 1-percent cutback in this portion of the budget.

This would be consistent with what we have done in other portions of the budget. As you recall, we passed an amendment cutting back on our construction costs for courthouses here in the United States. So when we look at the budget dealing with building new chancellory buildings in Ottawa, furnishings and furniture acquisitions abroad, facility rehabilitation and other maintenance kinds of programs, this would represent a rather modest cutback, one that certainly I believe we can handle.

We made cutbacks here at home. Let us make some cutbacks abroad. I urge adoption of the Inslee-Barca amendment.

□ 1830

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

I rise in opposition to this amendment. I think it should be understood that, the ranking minority member and myself, along with our colleagues on the committee, carefully reviewed every State Department account, because it was the State Department, that was cut most in our bill.

We have very carefully gone through the accounts to ensure that every place that we could effect reductions, we did effect those reductions. As a matter of fact, the account regarding which the gentleman offers the amendment, we reduced by $11 million.

This is a construction account. It is always easy to say that there has to be some money in there someplace that we can reduce. Well, perhaps that may be true if those accounts have not been carefully reviewed, and all of the demand on those accounts have not been carefully considered. On this bill here before us this evening, they have been. We carefully combed through this bill so that we could apply every single dollar that we had to the priorities in this bill: crime fighting and the economic initiatives of the President.

I would urge my colleagues to oppose this amendment. It sounds like a small amount of money. And to represent that we can defer maintenance, that we can defer construction, I submit that deferring only creates problems next year and the year after. It also compounds those problems with these kinds of amendments which are very popular, and unfortunately, are offered year after year, because those maintenance, those upgrades, those equipment buys become accumulating liabilities.

I would encourage the body to oppose this amendment. It is crafted to be attractive and the appeal in the arguments of the gentleman have been eloquent.

Regardless of that, I would oppose the amendment and ask respectfully that the body do likewise.

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

Mr. Chairman, the gentleman has well stated the position of the subcommittee. As he said, we worked at great length on the State Department portion of our bill.

I would point out to the Members that the State Department budget is the only one that is actually cut from current levels. They are getting less money in this bill than they have right now for the current year.

Do Members want to know why? Because we are giving the United Nations 1.2 billion peacekeeping moneys that otherwise we did not know we were going to have to do. So we had to cut back the State Department. They have already been cut, including this account. So, in fact, we are $11 million below the administration request as the bill is right at this point.

So if we cut another 15 million from this maintenance of buildings account, I am afraid it is going to cost us more money down the road. Because if we cannot maintain these buildings now, we are going to spend twice as much or more down the road to repair them. I think we have made enough cuts already.

If we would find a way to cut back on the amount of money that we are having to give the United Nations for these 16 peacekeeping missions around the world, Uncle Sam is paying 31.7 percent of that or at least is billed that by the United Nations, and that has caused us to have to cut back on the State Department accounts. Unless we control in the future the percentage that we are required to give the United Nations for peacekeeping, we will not have any money in the State Department at all. We will have to close these embassies around the world, I am afraid.

Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. INSLEE].

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

Mr. INSLEE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House earlier today, further proceedings on the amendment offered by the gentleman from Washington [Mr. INSLEE] will be postponed.

The point of no quorum is considered withdrawn.

The Clerk will read.

The Clerk read as follows:

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $533,304,000, of which not to exceed $288,000,000 is available to pay arrearage accumulated in fiscal year 1994 and not to exceed $23,092,000 is available to pay other outstanding arrearages.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $13,947,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,644,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

Mr. MOLLOHAN. (during the reading). Mr. Chairman, I know of no amendment until page 92, line 4. Therefore, I ask unanimous consent that the remainder of the bill through page 92, line 3, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The text of the bill through page 92, line 3, is as follows:

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182; $5,800,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,669,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101-246, $15,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 501. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchaper 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 502. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 503. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 504. (a) Of the budgetary resources available to the Department of State during fiscal year 1995, $5,566,000 are permanently canceled.

(b) The Secretary of State shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control and disarmament activities, $54,500,000, of which not to exceed $100,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.): *Provided*, That of the budgetary resources available in fiscal year 1995 in this account, $122,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses, in this account are reduced by such amount: *Provided further*, That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99-83, section 1303.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $44,200,000, to remain available until expended.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,247,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $476,362,000: *Provided*, That not to exceed $1,400,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further*, That not to exceed $1,000,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further*, That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English

teaching, library, motion pictures, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further*, That not to exceed $2,000,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3), and in accordance with the provisions of 31 U.S.C. 1105(a)(25), $4,300,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, Congress-Bundestag Exchange, and other educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $237,812,000, to remain available until expended as authorized by 22 U.S.C. 2455: *Provided*, That of the funds appropriated in this paragraph, $500,000 is for the American Studies Collections program.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For payment to the Eisenhower Exchange Fellowship Program Trust Fund as authorized by the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), $2,100,000, to remain available until expended.

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated to be derived from interest and earnings from the Eisenhower Exchange Fellowship Program Trust Fund as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), $300,000 to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1995, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $476,796,000, of which not to exceed $10,000 may be used for official receptions within the United States as authorized by 22 U.S.C. 1474(3) and not to exceed $35,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085; and in addition, not to exceed $250,000 from fees as authorized by section 810 of the United States Informational and Educational Exchange Act of 1948, as amended, to remain available until expended for carrying out authorized purposes: *Provided*, That $239,735,000 shall be transferred to the Board for International Broadcasting and shall remain available until expended for expenses authorized by the Board for International Broadcasting Act of 1973, as amended, of which not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That none of the funds appropriated in this paragraph for the Board for International Broadcasting may be used to relocate the offices or operations of RFE/RL, Incorporated from Munich, Germany: *Provided further*, That such amounts appropriated to the Board for International Broadcasting in fiscal year 1994 as are certified by the Office of Management and Budget to the Congress as gains due to the fluctuation of foreign currency, may be used in fiscal year 1995 and thereafter either to offset foreign currency losses or to offset unfunded RFE/RL costs associated with the implementation of Public Law 103–236: *Provided further*, That obligated but unexpended balances appropriated in fiscal year 1990 to fund planned transmitter modernization expenses may be expended in fiscal year 1995 for unfunded RFE/RL costs associated with the implementation of Public Law 103–236.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $85,314,000 to remain available until expended as authorized by 22 U.S.C. 1477b(a).

The CHAIRMAN. Are there any amendments to the bill through page 92, line 3?

AMENDMENT OFFERED BY MR. PORTER

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

The Clerk read as follows:

Amendment offered by Mr. PORTER: Page 92, after line 3, insert the following:

RADIO FREE ASIA

"(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Radio Free Asia program, $10,000,000, to be derived from amounts provided in this Act for "Radio Construction".

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BERMAN. Mr. Chairman, at what point would it be appropriate to offer an amendment to this amendment.

The CHAIRMAN. At any time while this amendment is pending.

Mr. BERMAN. Mr. Chairman, a further parliamentary inquiry: Is there a time limit?

The CHAIRMAN. There has been no time limit set on debate on this amendment. There may be in the very near future, however.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 60 minutes and that my time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. PORTER. Mr. Chairman, reserving the right to object, I would ask the gentleman a question. My concern at this point is that if I agree to this, there will be other amendments than the one to my amendment that we think may be in order. If that were the only on to be offered, then the 60 minutes is agreeable. But if there are other amendments or other amendments to that amendment, then I would have to object.

Mr. Chairman, I yield to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I am unaware of any others.

Mr. PORTER. Mr. Chairman, further reserving the right to object, can the gentleman agree to that?

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will continue to yield, yes, I am agreeable to that. The gentleman is saying that if there is more than the amendment from the gentleman from California, then the gentleman would want an extension of time which would be understandable at that point.

Mr. PORTER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BERMAN. Mr. Chairman, reserving the right to object, if I may ask the Chair, assuming the time limit is agreed to and an amendment to the amendment is offered, will this amendment and the amendment to the amendment be voted on or will they be rolled pursuant to the previous unanimous-consent agreement until the end?

□ 1840

The CHAIRMAN. Apparently it is in the discretion of the Chair, after consultation with the chairman and the ranking member of the subcommittee, to make a decision on that point. Such consultation and decisionmaking has not occurred as yet, however.

Mr. BERMAN. On whether or not the vote is rolled, Mr. Chairman?

The CHAIRMAN. That is correct.

Mr. ROGERS. Mr. Chairman, will the gentleman yield under his reservation of objection?

Mr. BERMAN. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I think we can clarify this a bit for all parties. As I understand the unanimous consent order under which we are operating, Mr. Chairman, at the end of the debate when a vote would be requested by either party, at that point in time either the chairman of the committee or the ranking Republican could request the

Chair for an immediate vote, as opposed to rolling it to the later time, is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. BERMAN. Reclaiming my time, Mr. Chairman, under my reservation of objection, it would be the intention of this gentleman to amend the gentleman's amendment to strike his $10 million cut in the radio construction account. That amendment would be subject to a point of order as exceeding the 602(b) allocations at this particular point.

However, earlier amendments have sought to strike money, and if any of them are successful, Mr. Chairman, there would be that existing allocation, and the question is whether a ruling on this amendment could be delayed until such time as we know the result of amendments offered earlier but not yet voted on.

The CHAIRMAN. The Chair will state that the gentleman has posed an interesting theoretical question which the Chair is unable to rule upon at this point, until the actuality develops.

Mr. PORTER. Mr. Chairman, will the gentleman yield under his reservation of objection?

Mr. BERMAN. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I would say to the gentleman that the difficulty that has been posed by his amendment is that no one had notice of it in adequate time to make the proper objections. Had we known about it, Mr. Chairman, it might well have worked out that it would fall in the right sequence so that the 602(b)'s were there. Now we find ourselves in a very difficult position in not having any objection to the amendment if the 602(b)'s are there, but we do not know that they are there, because votes have not been taken on previous amendments, and I would suspect, given the record of where we have been over this entire bill, that the 602(b) may well not be there, Mr. Chairman.

I do not know where this leaves the gentleman's amendment, however, Mr. Chairman. The procedural quandary seems to me to be a very, very difficult one, and I suggest that maybe the gentleman should consider simply supporting the amendment the way it has been written, with the understanding that we will work this out in conference and make it correct on the construction side.

Mr. BERMAN. Mr. Chairman, reclaiming my time on my reservation of objection, I appreciate the gentleman's suggestion. I believe my friend, the gentleman from West Virginia [Mr. MOLLOHAN], the chairman of the subcommittee, would suggest that I do the exact same thing and support his opposition to the amendment, so there we are.

Mr. Chairman, if I might just add my reservation of objection, had I been on the floor when the unanimous consent request to roll votes was made, I would have objected for this very reason, but I was not, so I am trying myself to sort out what the Chair describes as an interesting theoretical problem.

Mr. PORTER. If the gentleman will yield further, Mr. Chairman, if he had told me he was going to offer the amendment I would have made objection at the appropriate time, but I did not know.

The CHAIRMAN. Does the gentleman from California [Mr. BERMAN] withdraw his reservation of objection?

Mr. BERMAN. To the limit, Mr. Chairman? The gentleman withdraws his reservation of objection, yes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia [Mr. MOLLOHAN] that there be a limitation of time?

Mr. ROGERS. Reserving the right to object, Mr. Chairman, suppose there is an amendment to the amendment. Do we get extra for that, Mr. Chairman?

The CHAIRMAN. The Chair is informed that we would not get extra time. It would come out of the time provided in the time limit.

Mr. PORTER. Reserving the right to object, Mr. Chairman, I think what we had agreed to, if I can correct the Chair on this, is that if there were other amendments beyond the amendment, the proposed amendment to my amendment offered by the gentleman from California [Mr. BERMAN], then we would have further time, is that correct?

The CHAIRMAN. We have not agreed on the initial time limitation, as of yet. That unanimous-consent request is still pending.

Is there objection to the request of the gentleman from West Virginia [Mr. MOLLOHAN]?

Mr. KOLBE. Reserving the right to object, Mr. Chairman, would the gentleman from West Virginia [Mr. MOLLOHAN], the chairman of the subcommittee, restate the unanimous-consent agreement?

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will yield the unanimous consent agreement is that all debate be limited to 1 hour.

Mr. KOLBE. On what amendment, Mr. Chairman?

Mr. MOLLOHAN. On the amendment offered by the gentleman from Illinois [Mr. PORTER].

Mr. KOLBE. And all amendments thereto?

Mr. MOLLOHAN. And all amendments thereto.

Mr. PORTER. No, Mr. Chairman, just one amendment.

Mr. MOLLOHAN. Just the amendment offered by the gentleman from California [Mr. BERMAN].

Mr. KOLBE. And the amendment thereto offered by the gentleman from California [Mr. BERMAN]?

Mr. MOLLOHAN. Just the so-called Berman amendment thereto.

Mr. KOLBE. Further reserving the right to object, Mr. Chairman, then the time limit will not apply to any other amendments that could be offered?

Mr. MOLLOHAN. The gentlemen from Arizona [Mr. KOLBE] is correct.

Mr. KOLBE. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

Mr. PORTER. Mr. Chairman, I withdraw my reservation of objection.

Mr. ROGERS. Mr. Chairman, I withdraw my reservation of objection.

Mr. BERMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia [Mr. MOLLOHAN]?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. PORTER] is recognized for 30 minutes.

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

Mr. Chairman, the gentlewoman from Maryland [Mrs. BENTLEY] and I are offering an amendment today that will provide $10 million in funding for Radio Free Asia to provide surrogate broadcasts to China, North Korea, Vietnam, Burma, Tibet, and Laos. We are pleased to be joined by Ms. PELOSI, Mr. ABERCROMBIE, Mr. GILMAN, Mr. WOLF, and Mr. SMITH of New Jersey, showing broad support on both sides of the aisle for Radio Free Asia.

The United States has historically supported two types of international radio broadcasts to meet two very specific needs. The Voice of America has provided excellent programming designed to inform people in other nations about the United States. At the same time, surrogate broadcasting—like Radio Free Europe and Radio Liberty—has provided programming not about America, but truth about what is happening in that country and the world.

Both VOA and surrogate broadcasting are important foreign policy tools. Both have important missions and venues. Both have records of success. Both are extremely cost effective. Both are priorities and deserve strong support.

Mrs. BENTLEY and I have been working for the last 5 years to bring surrogate broadcasting—messages of truth and freedom—to the oppressed people of Asia. In 1990, Mrs. BENTLEY and I introduced separate pieces of legislation that would create Radio Free Asia and Radio Free China, respectively. In 1991, Radio Free Asia was endorsed by the President's Task Force on International Broadcasting. In 1992, the Congressional Commission on Broadcasting to the People's Republic of China followed suit, recommending the establishment of a new Asian broadcast service. RFA was authorized by the Foreign Relations Authorization Act, which become law in April, and President Clinton requested $10 million for

Radio Free Asia in his fiscal year 1995 budget request.

Mr. Chairman, less than a month ago, in his announcement that he would extend MFN to China, the President said,

I am also pursuing a new and vigorous American program to support those in China working to advance the cause of human rights and democracy. This program will include increased broadcasts for Radio Free Asia . . .

I received assurances from the White House this morning and this afternoon that "the Administration is committed to pursuing the President's request for $10 million to fund Radio Free Asia."

Radio Free Asia is clearly a program whose time has come. The only problem is that the subcommittee failed to include it in this bill.

The amendment that I would offer adds no new funds. We get the funds from an associated account, the Radio Construction Account. The bill has a total of $85.3 million in this account for this year, which is $12.2 million more than last year. In addition, it is my understanding that the Radio Construction Account has nearly $50 million in unliquidated funds from previous years, at least a portion of which are unobligated. If this proves to be a higher priority than others, the matter can easily be sorted out in conference.

The Chairman has questions about whether Radio Free Asia can begin and operate effectively with only 10 million dollars. It could certainly be more effective if we could fund it at its full authorization level of $30 million. I am confident, however, that meeting the President's request level of $10 million will be enough to begin a high quality radio service. Frankly, I also believe that the Senate, which has a more generous 602(b) allocation for this bill, will be able to find additional funding.

This issue is better left to the experts in international broadcasting and the authorizers have put a safeguard in the bill that authorizes Radio Free Asia to ensure that money is not wasted. Section 309 of the Foreign Relations Authorization Act for fiscal years 1994 and 1995 says:

No grant may be awarded to carry out the provisions of this section unless the plan submitted by the [Broadcasting] Board [of Governors] includes a certification by the board that Radio Free Asia can be established and operated within the funding limitations provided for in subsection (d)(4) and (d)(5) which is the authorization levels.

If the Board finds that Radio Free Asia is impossible to implement—which I would find difficult to believe since two congressionally mandated studies in the last 3 years have said it is not only feasible, but in the national interest—it may submit recommendations for changes in law that would make it feasible. These are ample safeguards to ensure that everyone's concerns are addressed.

Mr. Chairman, the Commission on Broadcasting to the Peoples Republic of China said it best when they wrote, "the fate of America is intertwined with the fate of American ideals." For individuals around the world, knowledge is freedom. The 1.3 billion people in the counties to be served by Radio Free Asia have no freedom. With a very small investment in this tremendously cost-effective program, we can give them the key.

I urge members to vote for this amendment.

□ 1850

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

Mr. MOLLOHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I would like to give just a few reasons why I am opposed to this amendment. It is not that it is not an interesting subject or even a good idea.

The administration is making a very strong effort now to reorganize Radio Liberty/Radio Free Europe and move the organization out of Munich.

It will cost at least $30 million to establish a Radio Free Asia. it may very well be, and we do not know yet, that this Radio Free Asia could be established as a part of the Voice of America. Perhaps some of the equipment could be used jointly with VOA. We do not know yet. But we do know that it would probably cost $30 million to establish a separate Radio Free Asia.

Just look at what is happening with Radio Liberty/Radio Free Europe in Europe, that is $210 million now, and so we can expect that Radio Free Asia would probably eventually cost in the area of $150 million to $200 million to operate. That means another $150 million to $200 million will have to come out of State Department and other USIA funds in future years—before we have even reorganized the Radios.

Mr. Chairman, this amendment is premature. It is not that we may not need or want to do something like this in perhaps within the year, but it is premature to do it in this bill. To take $10 million now as a downpayment I think would be a bad mistake.

I hope we vote this amendment down today. When we vote no on this, we are not necessarily voting against Radio Free Asia. Instead we are saying that today is the wrong time to do it. We do not have the information we need today, and we may be getting ourselves into a big expense that could perhaps be handled in a much more efficient and less expensive way.

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

Mr. PORTER. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], the cosponsor of the amendment.

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman from Illinois for yielding me this time.

I want to point out, Mr. Chairman, that the gentleman from California [Mr. CUNNINGHAM] should be added to the group that the gentleman from Illinois [Mr. PORTER] read earlier.

Mr. Chairman, it should come as no surprise to anyone that the spread of democratic ideas serves the interests of the United States because democracies are far less prone to launch wars of aggression. As a prime vehicle for the dissemination of democratic ideas, international radio broadcasting is a cost-efficient, nonviolent means of communication that forms an essential part of our overall program of diplomacy.

As most Members know, the Congress appropriates funds for two separate and distinct radio broadcast services—the first of which is the Voice of America, the official U.S. Government broadcast service. The second broadcast service, operated by the quasi-independent Board for International Broadcasting, is Radio Free Europe/Radio Liberty—which for over 40 years broadcast into Eastern Europe and the former Soviet Union. The success of both broadcast services is well documented in bringing hard news and commentary to hundreds of millions of people whose only other information was that spoon-fed to them by their governments. Our commitment to radio broadcasting helped break that stranglehold—and helped to bring down the Iron Curtain.

It is unfortunate that, contrary to our long-standing policy of maintaining two separate broadcast services to Eastern Europe and the former Soviet Union, we have yet to make a parallel commitment to promoting democracy in Asia. Throughout much of Asia, well over 1 billion people are routinely denied access to accurate, timely information by their governments.

One glaring recent example of this occurred on the eve of the anniversary of the Tiananmen Square massacre. In this case, the Government of the People's Republic of China issued the demand that hotels temporarily shut off access to CNN programing because of concern about the impact of Tiananmen-related stories. Such blatant efforts to deny essential domestic and international news to their publics are the rule rather than the exception throughout much of Asia.

In 1992, then-Governor Clinton spoke in favor of a Radio Free Asia broadcast service in a speech delivered at Georgetown University. President Clinton included funds for Radio Free Asia in his fiscal year 1994 and 1995 budget submissions to the Congress. Three weeks ago, at a press conference dealing with MFN and China, the President spoke of increased Radio Free Asia broadcasts. The trouble is—there are no Radio Free Asia broadcasts to increase. There is no Radio Free Asia—and there is no

money in this bill to create it. What we do have, is requests for more studies—which is exactly what we don't need.

Since my colleague JOHN PORTER and I first introduced Radio Free Asia legislation back in 1990, we've had 4-years worth of studies. In 1991, the President's Task Force on U.S. Government International Broadcasting issued a lengthy report, effectively endorsing Radio Free Asia. In 1992, the Commission on Broadcasting to Asia followed suit. The fiscal year 1995 State Department authorization bill which this body passed in April, authorized a Radio Free Asia broadcast service. We have had the studies, now it is time for action because we are losing valuable time in an increasingly unstable Asia. We should have had this service up and running several years ago. While the consequences of our failure to do so have yet to be fully realized, the writing is on the wall.

In Cambodia, 15 months after historic elections were held, the Chinese-backed Khmer Rouge are again on the offensive—waging war over the airwaves as well as on the ground. Members interested in seeing the daily regimen of inflammatory news broadcasts by Pol Pot's forces, need only refer to the Foreign Broadcast Information Service reports that many of our offices receive on a daily basis. The growing political chaos, fueled by Khmer Rouge broadcasts should be of serious concern to all who remember what happened inside Cambodia from 1975–1978. Radio Free Asia can play a positive role in helping Cambodia consolidate its tentative move toward democracy which is in danger of being suppressed again by the murderous Khmer Rouge.

In Vietnam, a country of 70 million people, the VOA broadcasts 2½ hours a day—certainly not enough for a country of such pivotal regional importance. In Vietnam, economic liberalization has not necessarily been followed by political liberalization. Yet, although the Vietnamese Government continues to prohibit free expression, there has been a range of nascent, democratic activities that must be nourished through access to a Radio Free Asia. Although the Congress has lifted economic sanctions, we must not falsely assume that trade, by itself, will foster democracy. While the VOA gives these countries a window to world events, a Radio Free Asia will address a full and fair colloquy of events of the day within each country and culture.

Then, there is the case of North Korea, a closed, militaristic society that has the potential to foment major instability throughout the region. In a closed society such as North Korea, international radio broadcasting is extremely important for another key reason—communication with the ruling elite. Contrary to the belief that North Koreas leaders are of only one mind, we know from past events that there are moderate as well as hard-line factions. Make no mistake about it, members of the ruling elite can and do listen to international radio broadcasts—perhaps behind closed doors—but listening nonetheless.

Kim Il-song will not live forever, and the succession is not yet clear. Through Radio Free Asia, we can implant the notion that a peaceful future is possible, with as much as the North Korean elite as can be reached. Must we wait for the outbreak of a second war on the Korean Peninsula before recognizing the need for a Radio Free Asia?

Radio Free Asia is an idea whose time has come. There is a vital need for Radio Free Asia to help the peoples of the Communist countries in Asia realize their own path to freedom. For these countries, we can highlight the successful experiences of Eastern Europe and the Soviet Union while emphasizing how countries such as South Korea, Taiwan, and Thailand have found their own path to greater economic and political freedom.

And let us be clear that we do not want Radio Free Asia to offend our friends in the region by fomenting destabilization in countries that are not as democratic as some would like. Radio Free Asia should not become a symbol of arrogance, nor should Radio Free Asia be sentenced to death by a thousand studies, which, unless we act today, is a distinct possibility. A vote in favor of our amendment is a vote in favor of democracy building throughout much of Asia. Radio Free Europe helped to bring down the Iron Curtain. Radio Free Asia can help bring down the Bamboo Curtain.

□ 1900

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

Mr. Chairman, I rise in opposition to the Porter amendment, strong opposition.

I would like to point out to the body that this issue is not one of first impression, so to speak, to the subcommittee or to the full committee. In the first instance, the subcommittee considered very carefully the administration's request which was $10 million for Radio Free Asia, and rejected it.

Mr. Chairman, the reason for rejecting the request is not that we are opposed to Radio Free Asia or to the purposes for which Radio Free Asia is proposed. The reason for our opposition is fiscal responsibility. This program is definitely well-intentioned, and there is obviously a need for such communication to Asia, but the program has just recently been authorized, and there has been no assessment of its cost.

Mr. Chairman, there has been no implementation plan developed yet, so we are being asked to fund this program purely on good faith.

We think, frankly, that it is irresponsible to do that. I do not think there is a member on the subcommittee, though I do not want to speak for them, who is opposed to Radio Free Asia per se. But we have had experience with unlimited funding of radio broadcast, and some of these experiences have been a bit unpleasant. Now we have to address them.

Therefore, we think it is crucially important that before we consider funding a program, we have an implementation plan so that we can assess the costs associated with this worthy and noble proposal. We do not have that, Mr. Chairman. We have no idea how the program would be implemented. We have no idea what the infrastructure needs are, and to what extent the infrastructure requirements can be shared with Voice of America facilities already in the area. We have no idea what the start-up costs are going to be.

Very importantly, Mr. Chairman, we do not know what this will ultimately cost. We have had a request of $10 million from the administration. We have an authorization of $30 million.

The gentleman offered amendments in committee for $22 million and $8 million, a combination of $30 million, but no one is able to tell us how much it will really cost. Are we dealing with a black hole here? Does this program cost $30 million a year? Does it cost $30 million to start-up? Is it going to cost $30 million next year? Is it going to be $50, $100, or $150 million?

We are not opposed to Radio Free Asia. We are opposed to appropriating money for a program for which we have seen no implementation plan.

We have had a number of discussions with the gentleman, and other distinguished Members who are interested in Radio Free Asia, about reviewing this request again when an implementation plan is made available to us. Even if it is between now and conference, we are willing to look at such a proposal so that we can begin to assess the costs. If we had that assessment between now and conference, I think the members of my subcommittee would be interested in looking at it to seek what we could do to support the program.

Mr. Chairman, I think it is irresponsible to act without an implementation plan. We have had many Members talk about fiscal conservatism and fiscal responsibility. We must question the request in the gentleman's amendment based upon the fact that we have not seen a program for implementation.

Therefore, we have no information on the scope either of the implementation or of the future operating funds.

So I encourage the body on a stand of fiscal responsibility to oppose this amendment. Give us a chance to look

at an implementation plan and consider the funding based upon tangible material.

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

Mr. PORTER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. GILMAN], the ranking Member on the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the Porter/Bentley amendment to fund Radio Free Asia and I commend Mr. PORTER and Mrs. BENTLEY for their diligent efforts on this measure. I have endorsed this concept for a long time, and now more than ever, the people living in the closed Asian societies of China, Laos, Burma, North Korea, and Vietnam should have access to independent news sources. Increased international broadcasting provides valuable information on events in those countries and around the world.

Radio Free Asia was established in the recently passed State Department Authorization Act—Public Law 103-236. Mr. PORTER and Mrs. BENTLEY's amendment seeks to fund a program already approved by Congress.

China is a major target for these broadcasts. We gained few concessions from the Chinese in return for granting of most-favored-nation status. Yet, it was hoped that the administration would at least succeed in putting a stop to the deliberate jamming by the Chinese of Voice of America broadcasts. Discussions were abruptly ended because the Chinese were unhappy with White House statements on broadcasting to Asia. Once again, aggressive actions by the Chinese Government are taken at the cost of the basic civil liberties of their people.

The continued jamming of VOA reenforces the reasons to fund additional broadcasting as a wedge to help open this society.

Furthermore, we cannot rely on the commercial market to provide the vital alternative to controlled state news. Recent articles indicate Rupert Murdoch, owner of STAR-TV in Hong Kong has dropped the BBC World News Service from his network to placate Beijing. STAR-TV had been retransmitting the BBC service to about 1.8 million Chinese households.

Information can be a powerful motivator, and broadcasting is a valuable tool as our experience with Radio Free Europe and Radio Liberty has proven.

A compelling reason for Radio Free Asia is that it provides an alternative to government-controlled media. State managed news means censorship, and precludes opportunities for thought-provoking commentary and discussion that may present views contrary to the government.

Even though satellite technology has vastly increased the availability of Western news around the world, proper equipment is required to receive these programs.

The Chinese have prohibited satellite dishes specifically to reduce access to Western media.

Aggressive radio broadcasting is an attempt to fill the information vacuum imposed by these countries. Radio broadcasts can be tailored to meet the language and programming needs of the country.

The value of uncensored news and commentary is unquestioned—one only need look at the success of Radio Free Europe and Radio Liberty and its impact on Eastern Europe and the former Soviet Union.

I commend my colleagues for their efforts to provide funding for this program and strongly support increased broadcasting to the Asian region.

Mr. PORTER. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. SMITH].

□ 1910

Mr. SMITH of New Jersey. I thank the gentleman for yielding this time to me.

Mr. Chairman, a few weeks ago Mr. Clinton renewed the most-favored-nation trade status for the People's Republic of China. To our shock and dismay, Mr. Clinton flipflopped on his own human rights policy when he delinked trade with China from human rights in China. Mr. Chairman, as a result, millions of Chinese, victims of the ongoing and, in some areas, increasing repression and persecution have been betrayed. The President broke his word and, as a direct consequence, millions of Chinese will suffer and be victimized because he has chosen to coddle the Beijing dictatorship.

That having been said, in announcing his decision, Mr. Clinton also said that his administration would pursue "a new and vigorous American program to support those in China working to advance the cause of human rights and democracy." He went on to say that "this program will include increased broadcasts for Radio Free Asia and the Voice of America." This increase in broadcasting was the first point he mentioned in his renewed human rights activity in China.

This commitment was echoed by Secretary of State Warren Christopher and Assistant Secretary of State Winston Lord. Both of them said that the administration would move to step up the use of VOA and inaugurate Radio Free Asia.

Mr. Chairman, I have been a strong supporter of Radio Free Asia for years. When I testified before the Commission on Broadcasting to the People's Republic of China in 1992 I testified that the Chinese Government maintains one of the world's most effective monopolies on information. Mr. Chairman little has changed since then. The Chinese Government continues to deny the Chinese people knowledge of conditions in their own country. China faces serious environmental challenges; there are important policy choices on economic and regional development to be made; the Chinese people have a right to know the status of human rights in their country deplorable as it may be and China's citizens would benefit from an understanding of how policies are made, and who makes them. Instead of addressing these important matters, the official Chinese media highlight endless hosannas on achievement of production quotas, audiences for admiring foreign visitors, study of the latest party documents, exemplars of socialist rectitude, and the achievements of the revolution. They also present distortions of the United States, human rights, and the spirit of democratic capitalism.

The control of newspapers, magazines, radio and television by the Communist Party continues to deny the Chinese people the truth about their own country and the world.

In 1991, a President's task force on U.S. Government international broadcasting endorsed Radio Free Asia. In 1992 a congressional commission on broadcasting to the People's Republic of China recommended establishing a new service to act independently from VOA. 1993 has been reported by human rights organizations as one of the worst years for human rights in China. Given the deterioration of human rights in China over the past year which include the trials and detentions of journalists, the promulgation of new and more restrictive laws on religion, the continued and increasing use of forced abortion to enforce their draconian population control policies, the continued use of prison labor, and reports on the trafficking of prisoner's body parts, the need for a Radio Free Asia is greater now than it was in years past.

If we want to know how effective programs such as a Radio Free Asia could be, we need only remind ourselves about the role Radio Free Europe/Radio Liberty played in Eastern Europe and the former Soviet Union. Leaders of the new democracies have testified to the power of these broadcasts. When asked if the broadcasts were important to the democratic movement in Poland, President Lech Walesa responded "Would there be Earth without the Sun?" During the days and nights of the August 1991 coup attempt in Moscow, Voice of America, Radio Free Europe/Radio Liberty and the BBC were the lifelines of the people at the barricades.

Radio Free Asia could have the same powerful effect in Asia as RFE/RL had in Eastern Europe. An investment in RFA is an investment in the interests and security of the United States. But this investment must be substantial, not a token gesture.

I believe that extending MFN to China and disregarding the atrocious human rights record of the past year was wrong. Funding RFA is one step that we can take in righting that wrong. If we fail to fund RFA or if we fail to fund it adequately, if we fail to give it the opportunity to even get off the ground, we are only continuing a pattern of breaking our promises and commitments. We cannot continue turning our backs on the people of China. At some point we must stop coddling dictators and stand up for the victims of repression and persecution.

If RFA is left unfunded or is underfunded, it takes away one of the proposed cornerstones of our already watered down human rights policy toward China.

Mr. Chairman, in the days of the Ching dynasty, the feet of young girls were wrapped in tightly drawn cloth. As these women grew into maturity, the bindings noosed their feet, crushing the delicate bones under the pressure and hobbled these women for life. These footbindings sentenced these women to stunted lives that could only find happiness within the approved ambit and patriarchy of their homes. The Communist Party today seeks to bind the minds of its citizens. The cords of China's media monopoly crush the human aspiration and creativity as effectively as the bindings crushed the feet of Chinese women. Broadcasts, provided by our Nation, can help loosen these bonds.

Mr. Chairman, an investment in Radio Free Asia is a wise investment for America's future, and for the pursuit of democracy and human rights not only in China but in all of Asia. I support this amendment and I urge my Colleagues to support it as well.

Mr. PORTER. Mr. Chairman, I am pleased to yield 5 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of the Porter-Bentley amendment and in appreciation to the chairman of the subcommittee, the gentleman from West Virginia [Mr. MOLLOHAN] for the hard work in putting together fiscal year 1995 Commerce, Justice, State appropriations bill. I understand the competition for funds in this legislation, and with that full appreciation I come to the floor to support the transfer of funds to Radio Free Asia, as presented in the Porter-Bentley amendment.

Mr. Chairman, others of our colleagues have pointed out the need for us to have independent surrogate broadcasting into China. Others have stated that this legislation, this issue of Radio Free Asia, was endorsed by President Bush's task force on U.S. Government international broadcasting in 1991. In 1992 it was endorsed by the Congressional Commission on Broadcasting to the People's Republic of China, which recommended the establishment of a new broadcast service. It was authorized in the gentleman from California, Mr. BERMAN's, legislation and in addition to that President Clinton included a $10 million request for Radio Free Asia in his fiscal year 1995 budget request. Those of us who have been working on this issue for many years have gone by the book. We have waited for the commissions to speak, the legislation has been authorized, and it was in the President's budget, and for that reason I was disappointed that it did not appear in the subcommittee on Appropriations' markup for Radio Free Asia.

Mr. Chairman, the Chinese dissident movement is reeling from a recent decision by President Clinton to renew MFN without any tangible improvement in human rights in China. I would like to read part of a letter from the National Council on Chinese Affairs.

Radio Free Asia is the best way that the U.S. Can help to break the Chinese Government's news embargo It can establish its credibility among Chinese people by its independence and diverse expertise other than from the U.S. Government. It can effectively penetrate into the Chinese society and let people know constantly what is happening around the country and around the world.

As you know, Mr. Chairman, this broadcasting will go into other closed societies as well.

Our colleague, Mr. SMITH, mentioned that Voice of America could perhaps do this. It cannot. We need Radio Free Asia as an independent surrogate to give the message of freedom into China.

In addition, Mr. Chairman, I would say I think Chairman MOLLOHAN's statement that he would like to see an implementation plan is a perfectly legitimate statement and the gentleman should have an implementation plan. We are asking our colleagues today to vote to let us move Radio Free Asia along.

As I said, Mr. Chairman, we have adhered to and abided by the commission report, getting our authorization, having the President's 1995 budget include this request if we do not pass this amendment today, we will be sending out a very bad message to the world. We will be saying that in spite of President Clinton's saying that this was one of the cornerstones of his Asia policy to have Radio Free Asia, that the Congress of the United States is rejecting the funding even though it is a modest amount of funding for Radio Free Asia.

This amendment is budget-neutral, and this amendment is one that deserves the support of our colleagues.

Recent newspaper reports have said because of or coinciding with the succession struggle in China, that a bamboo curtain in surrounding that succession struggle. On a day-to-day basis reporters are thrown in jail, and some of my colleagues, I believe, Mr. GILMAN, referenced the chilling effect that that Chinese policy has even in Hong Kong, where there is self-censorship of the press as well as discontinuation of free broadcasting into China.

So, in answer to my colleague, Mr. SMITH, saying it could possibly be done by Voice of America, this is different. We had Voice of America when the Iron Curtain was down in Europe, and we had Radio Free Europe and Radio Liberty as well. Please let us recognize the distinction.

Please recognize what the need is for Radio Free Asia.

Please let us not send the wrong message that the United States does not want to send a message of freedom to Asia as it did to Europe; please support the Porter-Bentley amendment.

The letter referred to is as follows:

NATIONAL COUNCIL ON CHINESE AFFAIRS [NCCA]
Washington, DC., June 27, 1994.

VOTE "YES" FOR PORTER AMENDMENT ON H.R. 4603 TO SUPPORT RADIO FREE ASIA

DEAR REPRESENTATIVES: The Chinese democracy movement urgently ask you to support the Porter amendment for the Commerce-Justice-State Appropriations for the FY95 (HR4603). This amendment will be voted on this afternoon which will reserve the funding for Radio Free Asia.

Chinese government is the only regime in the remaining communist bloc. After the Tiananmen massacre, the Chinese Communist Party tightened its control over the media and toughened its news embargo, making it more difficult than ever for ordinary Chinese people to understand the true situation in the world and other parts of the country. This information embargo is the only effective tool for the Chinese government to conduct its usual propaganda campaign and maintain its political power.

Radio Free Asia is the best way that the U.S. can help to break the Chinese government's news embargo. It can establish its credibility among Chinese people by its independence and diverse expertise other than from the U.S. government. It can effectively penetrate into the Chinese society and let people know constantly what is happening around the country and around the world. It is also the most economical way to promote democracy and freedom in China as well as in other remaining communist countries in Asia such as North Korea and Vietnam.

The U.S. has an important role to play in the next few years which are critical for China. The Chinese government will be experiencing a succession struggle which has the potential to change the face of China forever. The Chinese people look upon America as a great nation and have been inspired by America's founding values and its commitment to freedom and democracy worldwide. The U.S. Congress has been instrumental in the last five years to insist on linkage between MFN and human rights conditions. Now more than ever, we need your support for this very important and critical endeavor for the cause of human rights and democracy in China.

Sincerely,

HAICHING ZHAO, PH.D.
President/NCAA.

Mr. MOLLOHAN. Mr. Chairman, I yield 4 minutes to a distinguished member of the subcommittee, the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. I thank the gentleman for yielding this time to me.

First, I think it should be stated clearly for the record that all of us engaged in this debate want the same objective, and that is for individual freedoms to be enhanced and secured for the people of China, and in fact for the people throughout Asia.

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That is our objective, and we are only debating what is the best means of achieving that objective. Certainly, Mr. Chairman, the gentlewoman from California [Ms. PELOSI] who we just heard from has been working for many years on that objective, and we strongly support what she wants to achieve, as well as the author of the amendment, the gentleman from Illinois [Mr. PORTER].

I just spoke to someone who has been working for most of their career to advance the cause of individual freedoms for people in Asia. He knew that I got somebody out of China after the Tiananmen Square massacre because I feared for his life given the repressive tactics of the Chinese Government. But it was particularly telling to me when he said, "You know, it breaks my heart that money that is so scarce for needs that are so great will be wasted through duplication."

It is no one's fault, but the reality is we do not have enough money to start up Radio Free Asia. The committee heard from expert witnesses that said that it will cost nearly a $100 million to set up the infrastructure to make this dream of Radio Free Asia work effectively. There is a consultant's report that substantiates that conclusion, and so the money we are talking about that will be coming from a program account that has already been cut below last year's level, that money will be used for startup costs for leasing physical facilities, for administrative costs, undoubtedly a lot for consultants, very little for actual broadcasting, while at the same time the Voice of America has a facility in Hong Kong, they have a bureau in Beijing, they just developed a one milliwatt transmitter in the Philippines, they have a new facility in Thailand, they are leasing facilities in the Russian Far East, they have greatly strengthened the coverage of Chinese affairs, particularly, and, in fact, they contributed to the desire on the part of so many people, particularly young people, to overthrow the repression of the Chinese Government. Their coverage of the most-favored-nation status debate in the House of Representatives; anyone who listened to that knows it was fair. It was just the kind of broadcasting that everyone involved in this debate wants to induce, and in fact the letters that came into the Voice of America, if anything the young people in China asked why they have to be so critical of the Chinese Government. We know that Radio Free Asia is going to be very critical of the Chinese Government, but that is because the House of Representatives and, I think, the American people will continue to be critical of the Chinese Government until the Chinese people have more freedom than they currently have today.

What we are talking about, Mr. Chairman, is the pragmatic economics of very limited money that have to be focused, targeted, on whatever is going to work, that is going to bring the most effective services to the most people. Voice of America is organized to do that. There is a board of governors, they call it the BBG, that is just being set up to ensure that there is no manipulation.

I would only suggest to my colleagues to look at Radio Free Europe and Radio Liberty. We are spending over $256 million for those programs. We are consolidated. We are now cutting back on them. It is very difficult to cut back. Let us use the little money we have in the most effective way possible.

For that reason, Mr. Chairman, I strongly oppose the amendment offered by the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I say to my colleagues:

When you went to eastern Europe, nobody said Voice of America saved eastern Europe. They said that Radio Free Europe helped save eastern Europe. I spoke to so many Romanians who said when they would listen to the radio and hear what went on on Radio Free Europe, that is what made the difference. They never said Voice of America made the difference. It was Radio Free Europe.

Secondly, China. One-fifth of the world's population is in China. This Congress has debated China for a long time. You are not going to deal with China.

Vietnam. Thousands of American men and women died in Vietnam, and we are not willing to put up $10 million to deal with the issue.

And Korea. You can't pick up a paper any day without seeing stories of Korea, and now we are not willing to deal with this issue with regard to Korea.

Mr. Speaker and Members, I strongly support the Porter-Bentley amendment. It is good to push the democratic ideas in China, in Vietnam and in North Korea. To turn this down would be that we would be telling the people of China that we have basically forgotten about them. A good vote for democracy is a good vote for the Porter-Bentley amendment, and I urge Members on both sides of the aisle that this ought not be a partisan issue because the Clinton administration, the Clinton administration, the Clinton administration supports the Porter-Bentley amendment.

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

Mr. Chairman, I want to compliment the gentleman from Illinois [Mr. PORTER], the gentlewoman from Maryland [Mrs. BENTLEY] and the others who have proposed this money for Radio Free Asia because I think most, if not all of us, sympathize with the concept, and the idea, and the need for a Radio Free Asia just as we solve the tremendous success of Radio Free Europe and Free Liberty, and we heard Lech Walesa, and Vaclav Havel and others in what is now free eastern Europe say publicly that the reason for that was Radio Free Europe, Radio Liberty. So, Mr. Chairman, we know the effectiveness of the surrogate radio broadcasting operations.

The problem with this proposition at this very minute is, as the chairman of our subcommittee said, we do not have the money. We tried to find it. But we were confronted, Mr. Chairman, by the Congress' authorization act in the State Department that mandated, that made us, put the only money we had, or the first money we had, into the consolidation of the existing surrogate broadcasting services, Radio Free Europe, Radio Liberty. We do not have a choice.

This body told the appropriating committee in the authorization act, "You have got to put the first money you find toward consolidating these operations," and we were scrimping to find money for that when we were asked to fund a whole new surrogate broadcasting into Asia, and much as, perhaps, we all agree, and I certainly do, with the idea, we just simply could not find the money.

This amendment would cut the existing radio construction account for USIA broadcasting by 12 percent, and, if that takes place, we are going to have to delay completion of projects already under way at two new facilities serving Africa, the Middle East, and South Asia where radio towers are now being constructed. We would have to completely stop that and shift the moneys to a whole new operation, and it would not be enough to get it under way.

What the chairman has requested of those who are interested in Radio Free Asia to do is to give us just a few weeks and see what happens when we go to conference with the Senate; and, No. 2, to give us time to get some planning from USIA and from the various players here involved so that we know what we are dealing with.

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We have not yet been given a game plan, a spending plan, if you will, for Radio Free Asia. It is sort of an open-ended process at this time. And we simply cannot plan that way, given the mandates we are under from the Congress to consolidate broadcasting of

the existing surrogate stations. No. 2, these ongoing projects we would have to completely stop and perhaps nullify the contracts somehow and incur some expenses there.

So I would hope that we would put off this amendment, Mr. Chairman, until we have time in 6 weeks or so to see where we are and what the actual planning requests are of us for Radio Free Asia. I certainly sympathize and support the concept and pledge to help find the money for it, but we have to work within very tight constraints in this operation right now. I hope we could put this off.

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

Mr. PORTER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of the Porter-Bentley amendment. I do not think there is any question about what Radio Free Europe, Cuba, or Asia would do, and I have listened to my colleague, the gentleman from Kentucky [Mr. ROGERS]. But we nearly gave $1 billion over a 5-year period for the National Endowment for the Arts, but yet we are having trouble finding money for freedom and truth in countries that have been denied that information before.

I think we ought to call it "Truth or Consequences" and look at the consequences if they do not.

I would like to commend the gentlewoman from California [Ms. PELOSI] for her fight on human rights, especially with China. But if you go through China and see why that 5,000-year-old dog is changing, it is because information is becoming available to the people of China, and that is important.

What a difference this amendment will make. What a difference to hundreds of thousands of people that have been denied that type of information.

Let us make their day. Let us make their life, Mr. Chairman. Let us support this amendment.

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

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

Mr. Chairman, I want to reiterate that the committee is not opposed to a Radio Free Asia for the purpose of carrying out the important communication requirements in that area of the world. Indeed, what we are trying to do is to review each of the subject categories in this account: funding for VOA, consolidations, and creation of a new board, to effect efficiencies in this whole range of initiatives. We are trying to support these initiatives in order to bring fiscal responsibility to our broadcasting efforts. We do not want to diminish the effectiveness of these programs. And once the committee receives an implementation plan for Radio Free Asia, we may be very receptive to funding that implementation plan.

At this point we do not know what it is going to look like. In a letter to me written June 3 from Mr. Duffy, Director of the U.S. Information Agency, he says, in part, that the newly authorized Broadcasting Board of Governors, which should be appointed soon, will be in a position later this year to review all broadcasting options and recommend appropriate fund shifts within broadcasting resources to meet primary requirements, including Radio Free Asia.

We simply want to see that documentation. We want to be able to apply the millions of dollars that this undertaking is going to require in the most efficient, effective way.

I urge, again, opposition to this amendment.

Mr. Chairman, I am pleased to yield time to a distinguished member of our subcommittee who has worked extremely hard in this area last year, looking critically at the various accounts under our jurisdiction. He has become a very informed gentleman in this area, and I know the body will remember his efforts with regard to Radio and TV Marti last year.

I yield the remainder of my time to the gentleman from Colorado [Mr. SKAGGS].

The CHAIRMAN. The gentleman from Colorado is recognized for 1½ minutes.

Mr. SKAGGS. Mr. Chairman, I want to pose a question, because one of the previous speakers made the point that this amendment had the support of the administration. I am wondering what the chairman's understanding is on that point.

Mr. MOLLOHAN. Mr. Chairman, I have no knowledge that the administration is supporting this amendment, and, indeed, if we rely upon Mr. Duffy's representation in this letter, the parts I did not read, he does not support the amendment.

Mr. SKAGGS. Mr. Chairman, that was my understanding as well. As many of the speakers this evening on this issue have pointed out, we really do not have a fundamental disagreement about ends. It is a disagreement about means. In the committee's proposal, we are increasing by $3 million moneys for broadcasting to Asia, which will be no doubt used in large part to deal with precisely the target countries that are the subject of the gentleman's amendment.

There is no difference of opinion about the fundamental objective of a more robust broadcasting program to the countries of Asia. But we have a very serious problem here with respect to the costs versus the benefits of this particular approach.

The costs, as have been pointed out, involve a hobbling of the Voice of America's radio construction account, which was already reduced by a quarter below the administration's request. And ironically, if we were to pass this amendment, we would be debilitating the capabilities of VOA to get to many of the same audiences that would be the subject of additional broadcasts through a Radio Free Asia, those in South Asia at least, but also hurting our capabilities in Africa and the Middle East. These are vital audiences for us to reach, too.

So while laudable in its objectives, I think this is the wrong way to proceed, and urge the defeat of the Porter-Bentley amendment.

Mr. PORTER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, it seems to me just listening that this is somewhat of a turf fight between the VOA and Radio Free Asia, and we need both. There ought to be a way to have both. The Voice of America has one mission, which is to tell the world about America. Radio Free Asia has another mission, which is to tell the people of China and North Korea and Asia what is going on in their country, what they may never know from a perspective of democracy and freedom.

They are both indispensable if we are going to make progress in democracy. We are talking about human rights in China. How better to ameliorate that situation than through engagement, and how better to engage them, not only with trade, MFN, if that is the choice of this Congress and this President, but to communicate, to evangelize, to let them know what democracy means and how it can work in their great country.

I think we need both the Voice of America and Radio Free Asia. I am sure that the money will be spent wisely and well. If it is not, I am sure the oversight by this great subcommittee will be most effective.

Mr. Chairman, I support the Bentley-Porter amendment.

Mr. PORTER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

The CHAIRMAN. The gentleman from California is recognized for 3 minutes.

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Mr. ROHRABACHER. Mr. Chairman, the future of mankind is being written in Asia. The economic growth in the Pacific rim represents the mainspring of wealth on this planet today. The dynamic forces that are at play will have much to do with the kind of world that emerges after the cold war era has been long forgotten.

The small investment in sharing the ideals of freedom is a worthwhile investment. During the last four decades,

the cold war was won not just with force of arms but with ideas. Our broadcast outlets, Radio Liberty and Radio Free Europe, became and literally so beacons of hope, transmitters of freedom. In China, Burma, Vietnam, Korea, Tibet, and Laos, there are those who share our ideals. And they resist the tyranny that oppresses them. They do not want us to fight their fight. But our support, our broadcasts of truths and our international demands for justice, democracy, and human rights make a difference. Our demands, our commitment as seen by those people keep alive their spirit, their resistance.

I know when I worked in the White House, there was a man named Schransky in prison in the Soviet Union, Natan Schransky. Later he was freed from his prison. He came to visit Ronald Reagan. And when he told Ronald Reagan, when he met him for the first time, he said, "Whatever you do, do not tone down your speeches. They were smuggled to us in little tidbits, little pieces of paper which had quotes from your speeches that kept our hope alive in the Gulag."

What we say and what we do as free Americans keeps alive the hope of freedom of people we will never meet. It is part of our responsibility as Americans to keep lit the flame of liberty that will someday in a righteous conflagration destroy and burn down the battlements of tyranny throughout the world.

We have lifted the embargo on Communist Vietnam. We have extended again most-favored-nation status to the dictatorial regime on mainland China. Radio Free Asia is a statement to the oppressed that Americans may be trading and making a profit in dealing with people who suffer under this regime, but we are on the side of the oppressed. We are not on the side of the oppressor.

This is a time when we need to make that statement. The people in Asia need to hear us reaffirm that commitment, and they are listening to this debate tonight.

I say, let us send them a message that we are faithful to the principles of our forefathers and foremothers. Let us make them proud. Let us keep sending that message, broadcasting it. We here in America are for liberty. We are with you, the people of the world who are oppressed.

Vote "yes" on Porter-Bentley.

Mr. PORTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to say that the gentleman from New York [Mr. GILMAN], the gentlewoman from Maryland [Mrs. BENTLEY], the gentleman from New Jersey [Mr. SMITH], the gentlewoman from California [Ms. PELOSI], the gentleman from Virginia [Mr. WOLF], the gentleman from California [Mr. CUNNINGHAM], the gentleman from Illinois [Mr. HYDE], the gentleman from California [Mr. ROHRABACHER], all on our side who have talked on this amendment, have been consistent fighters for human rights. They know the importance of beaming a message of truth and freedom to the people of Asia.

I have to say to the gentleman from Colorado that I talked to the people from NSC this afternoon, and my staff, this morning. The administration unequivocally supports providing funding to Radio Free Asia in the amount of at least $10 million, and the President spoke in his remarks on MFN saying that this is a part of the world where we will be broadcasting and where he is seeking support. The administration supports Radio Free Asia, but, sadly, has provided, once again, no guidance as to what account to cut to fund the President's $10 million request.

I would say to the gentleman that each of the people who have spoken against this have glossed over the great difference between Voice of America and the surrogate radios. They are not the same thing. The Voice of America is the official voice of the United States beamed about America all across this world, a very, very important broadcasting system. It is not surrogate radio. Surrogate radio was designed to operate within a country and to beam a message of what is happening in that country, in that society and in that society as it relates to the rest of the world to the people within that society, because information is censored by repressive governments and they do not have access to the truth.

These are quite different things. It is time that we got on with bringing Radio Free Asia into being. We have worked for the last 5 years to do this. It is authorized. The money is available. There is ample money in this account that is unobligated.

I would urge the members to support the Porter-Bentley amendment.

Mr. ROGERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mrs. UNSOELD. Mr. Chairman, this amendment is a vital step if we are to bring the voice of freedom to those ruled by oppressive regimes in Asia. I congratulate the members who have brought it before us.

The amendment is a very modest investment—$10 million to fund an effort that the President has indicated is vital to promote the spread of democracy and human rights in Asia. It represents a small step in the giant footprints made by Radio Free Europe and Radio Liberty. All of us today recognize the huge role their broadcasts made in promoting freedom in central and eastern Europe. Radio Free Asia can play the same role on another continent equally important to our future.

This amendment is really about reaching out of those in China, Tibet, Burma and elsewhere whose governments try to keep the truth from them. With this small investment we can let them know that the world does care about their fate. We can bring some portion of freedom to them. We can—by sharing the truth with them—help them build a future for themselves and their children that is free of tyranny. I urge my colleagues to seize this opportunity and support this important amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER].

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

Mr. MOLLOHAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Illinois [Mr. PORTER] will be postponed.

The point of no quorum is considered withdrawn.

The Clerk will read.

The Clerk read as follows:

BROADCASTING TO CUBA

RADIO BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America) , including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $8,625,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $20,500,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $5,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $33,000,000, to remain available until expended.

AMENDMENT OFFERED BY MR. HEFLEY

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

The Clerk read as follows:

Amendment offered by Mr. HEFLEY: Page 93, strike lines 8 through 12.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes and that my time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. HEFLEY. Mr. Chairman, reserving the right to object, did the gentleman say 10 minutes total?

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, that was my request.

Mr. HEFLEY. Yes, Mr. Chairman, further reserving the right to object, I thought the agreement we had was 10 minutes on each side. I had wanted a little longer, but I am willing to do 10 minutes on each side if the gentleman would be amenable to that.

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will continue to yield, does the gentleman think he could not do it in less than 20 minutes? Could he do it in 15 minutes?

Mr. HEFLEY. Mr. Chairman, that is not much time. We might be able to do it in less, but we might not either. It is an important issue.

Mr. MOLLOHAN. Mr. Chairman, the gentleman would agree to 20.

Mr. HEFLEY. Mr. Chairman, I withdraw my reservation of objection.

Mr. DREIER. Mr. Chairman, reserving the right to object, the agreement would be that the total amount of debate on this issue would last for 20 minutes. Who will control the time on either side?

The CHAIRMAN. The gentleman from Colorado [Mr. HEFLEY] would control 10 minutes; the gentleman from West Virginia [Mr. MOLLOHAN] 5 minutes, the gentleman from Kentucky [Mr. ROGERS] 5 minutes.

Mr. DREIER. Mr. Chairman, I know that there are a number of Members on our side, the gentleman from New York [Mr. GILMAN], the gentleman from California [Mr. ROHRABACHER] and others, who would like to speak. I have no problem with that myself. I do not know if anyone else objects to that unanimous-consent request.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado [Mr. HEFLEY] for 10 minutes.

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

Mr. Chairman, my amendment would strike the funding—$33 million—for the National Endowment for Democracy.

Last year, the House witnessed a remarkable lobbying campaign. Leading Democrats and Republicans, labor and big business joined together to support an obscure cold war holdover called the National Endowment for Democracy.

The Chamber of Commerce went so far as to score support for the NED as a vote for business, while the AFL–CIO scored the debate as support for labor—all on the same vote.

I don't think that's ever happened before, and I certainly don't expect to see it happen again.

What does the NED do to receive support from these remarkable bedfellows? Simple—it funds them.

In the last decade, the NED has distributed over $200 million dollars to private organizations, including groups affiliated with the Republican Party, the Democratic Party, the AFL–CIO, and the Chamber of Commerce.

This support partially explains why the NED has such diverse support. The other explanation is NED's mission.

The National Endowment for Democracy was created a decade ago with the mission of countering Soviet expansionism by educating foreign populations in the art of democracy. It was designed to be private entity funded through a combination of public and private funds.

Supporters of the NED argue that the endowment is uniquely positioned to carry out its overall mission of promoting democracy. I expect them to characterize this debate in those terms—support NED and you are a friend of democracy.

I disagree with that assessment. This is not a debate about democracy. Rather, it is a debate over the wisdom of giving quasi-private groups the authority and the funding to conduct their own independent foreign policy. It is a debate about accountibility.

Let me list some of my concerns.

First, there is no private in the public-private partnership. 95 percent of the NED's funding comes from the Federal Government, while the remaining 5 percent is spent on efforts unrelated to the NED. In other words, the NED is wholly funded by Uncle Sam.

This dearth of private funding is not from lack of trying. Some groups have made an effort to raise private funds—they just haven't been successful. This raises a red flag in my mind. If the NED is a worthwhile program, why does it not receive any private support?

Second, the bipartisan nature of NED is better described as multipartisan. Each recipient group—Republican, Democrat, labor, business—pushes its own agenda. Needless to say, these agendas don't always agree with one another.

Nor do they always comport with official U.S. policy. In the past, NED funds have reportedly been used to support a military-backed candidate in Panama, fund opposition to President Arias in Costa Rica, and promote fascists in France.

These efforts paint an unsavory picture of private groups, funded by the American taxpayer, supporting policies not only in conflict with each other, but sometimes in conflict with official U.S. policy.

Third, the NED has mismanaged its—or our—finances. Following its near death last year, the NED promised to reform its books and make its recipients more accountable. The NED made that same promise, however, after audits in 1986, 1991, and 1993 gave the endowment failing grades.

According to the inspector general's report last March, NED has failed to ensure that its grantees could account for their funds and failed to ensure that these funds were used in compliance with the grant terms.

NED supporters claim that these criticisms are inevitable in an organization designed to break through the redtape of official foreign policy. I agree.

But it is also inevitable that—without adequate oversight—taxpayer dollars will be misused.

That is the core contradiction of NED. Without adequate oversight, the taxpayers can't be protected. With adequate oversight, NED's mission is hamstrung and useless.

We have official programs with the same mission as NED's—USIA and AID. Their budgets dwarf the NED's. [See Chart] They are accountable to the President of the United States, who has the constitutional authority to conduct our foreign policy.

If we increase oversight and control on NED, how will it differ from these two programs?

If we do not, we run a great risk. We have hot-spots all over the world—Bosnia, Somolia, China, North Korea. NED has people working in many of these locations. Who are they, and in whose interest are they working?

Which brings me to my final point. The cold war is over.

The explicit purpose of NED was to combat Soviet expansionism. Only in a world where the Soviet Union lives and grows do the obvious compromises of NED make any sense. Without this counterweight, NED's activities smack of the same imperialism the endowment was created to combat.

Make no mistake, NED has had some successes. But I find myself wondering how many of these victories for democracy would have taken place without NED's assistance.

I also wonder how many "successes" will come back to bite us 5 or 10 years down the road.

How many Saddam Hussein's are receiving NED funds? How many spurned organizations will come to power with bitter feelings towards NED and the United States?

Foreign policy is a messy business when you have just one State Department. How messy is it when we have six or seven?

In conclusion, Mr. Chairman, I have no illusions that our post-cold war world is a safe place. The U.S. and its allies need to remain vigilant and strong.

The National Endowment for Democracy, however, has no place in a world without the Soviet Union. Soviet expansionism was the only excuse for funding the NED. The Soviet Union is gone. It is time for the NED to follow.

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

Mr. MOLLOHAN. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Colorado [Mr. HEFLEY], and would defer to a very distinguished member of this body, the chairman of the Subcommittee on International Operations of the Committee on Foreign Affairs. The gentleman from California [Mr. BERMAN] has distinguished himself. He just recently managed the authorization bill.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN] to lead off the opposition.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from West Virginia [Mr. MOLLOHAN] for his very kind comments, as well as for his work on this bill.

Mr. Chairman, this bill, which reduces last year's level of appropriation by $2 million, is conceded by the author of the amendment to be eliminating a program that does many good things, but says we should eliminate it because of the way it does it, and because the cold war is over.

Mr. Chairman, I would suggest that now more than ever, as in the nonpolarized world, the notion of promoting fundamental concepts of democracy and doing it in exactly the way that this process sets it out, not through a Government program, where very direct U.S. interests are promoted and where an agenda is expected, but by people from the political parties, from the business community, from organized labor.

Yes, the AFL–CIO supports this. We can assume it is for some narrow, parochial kind of reason. I would suggest to the gentleman who made this amendment that it is because everyone would agree that a fundamental tenet of freedom and democracy is a free labor movement, free to organize, free to bargain collectively, and the fact that labor participates in seeking to create that freedom throughout the world is a tribute to them, it is a tribute to the work of the National Endowment for Democracy, and it would be a terrible, terrible thing to cut this very exciting, vibrant program that promotes our most fundamental values around the world.

Mr. Chairman, I urge a "no" vote.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I rise in strong opposition to the Hefley amendment to strike the $33 million appropriated for the National Endowment for Democracy [NED].

The level of funding in the bill is already $12 million below the President's request and $2 million below last year's level.

There is broad bipartisan consensus that support for Democracy is one of the enduring principles in American foreign policy. We manifest that support through the National Endowment for Democracy.

The NED has the support of both parties, of conservatives and liberals, and of labor and business, all united to support the enduring goal of promoting democracy and political freedom.

The fall of communism has not created instant democracies. We should support the emerging democracies as they develop, by helping them build viable political parties, democratic institutions, and stable, peaceful, democratic countries.

It would be foolish to turn our backs on democracy after we worked so hard to defeat communism. A few small but wise investments in democracy today may help prevent the vast expenditure of defense dollars tomorrow.

For example, the NED has done successful work in Nicaragua, Poland, Chile, South Africa, and throughout the former Soviet Union.

The NED helps the United States export democracy, our most important commodity:

I urge my colleagues to oppose the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I yield one-half minute to the gentleman from California [Mr. DREIER].

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Mr. DREIER. Mr. Chairman, there is $1.2 billion in this bill for peacekeeping measures in support of the United Nations, $33 million for the promotion of democracy. This is a very important, meager expenditure. I have the highest regard for my colleague, the gentleman from Colorado, Mr. JOEL HEFLEY, but I have to say having served on the board of the International Republican Institute, we are increasing the level of private sector involvement for this organization. We are seeing a very important effort here, promoting democracy in parts of the world that need it desperately, Russia, the Ukraine, South Africa. This is a key national security vote.

Vote "no" on the Hefley amendment, vote in favor of promoting democratization worldwide.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I rise in opposition to the amendment and in strong support of the NED.

Mr. Chairman, I rise in opposition to the amendment and to remind my colleagues of the old adage that an ounce of prevention is worth a pound of cure, and I am not talking health care. This bill appropriates $222 million for new peacekeeping operations, military operations designed to restore order after a political system breaks down. We have already seen the dangers associated with these operations in Somalia and we soon may see them in Haiti. My colleague asks us to cut the $33 million in funding for NED, a program with a proven track record in democracy-building that addresses the root causes of political instability so that likelihood of systemic breakdown, and the need for peacekeeping is reduced. It makes no sense, as the White House contemplates peacekeeping forays in Haiti and elsewhere, to cut the very program that offers preventive medicine. I urge my colleagues to vote no on the Hefley amendment and to support NED.

Mr. HEFLEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. RAMSTAD]

Mr. RAMSTAD. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in strong support of the Hefley amendment to strike $33 million in funding for the National Endowment for Democracy.

I know that NED has high-profile supporters across the political spectrum. But with a $4.4 trillion debt hanging over our heads, this is an expenditure we simply can't justify to the folks back home.

NED is not the public-private partnership it is often touted to be. I always thought the term "partnership" indicated some kind of equal arrangement, but 95 percent of NED's funding comes from the Federal Government alone.

Finally, repeated audits of NED's finances show that its track record is one of mismanagement, not cost-efficiency. Once again, the taxpayers are not getting the best bang for their buck.

Last year, the House decisively voted 247 to 172 to end funding for the NED. But, as happens all too often around here, $35 million for the NED was slipped back into the bill in conference.

I urge my colleagues to make another stand against wasteful spending. let us re-endow American taxpayers with their own money, not send it overseas. Let us support the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support for the funding contained in this appropriations bill for the National Endowment for Democracy and urge my

colleagues to defeat Mr. HEFLEY's cutting amendment. I commend the new subcommittee chairman, Mr. MOLLOHAN, and the ranking member, Mr. ROGERS, for their leadership in crafting this appropriations bill, in particular, for the continued support for a key tool of U.S. foreign policy—the National Endowment for Democracy.

One of the most important foreign policy challenges facing the United States today is to assist those countries transitioning to democracy. This is a long and difficult process. Many of those countries remain in turmoil and will for years to come. But the United States must stay in this for the long haul to allow democratic principles take root.

A return to authoritarian rule threatens our national interest and undermines any prospects for a peaceful world order.

That is why so many of us support NED. We support their programs to assist those trying to build democracy in former Soviet Union, and the other courageous countries who share our values. It will mean lower defense costs, more stable trading partners, fewer refugees who must flee tyranny, and a more stable world.

NED and the four core grantees provide cost effective programs that helps people learn how to manage and participate in democratic governments. Reliable support provided by NED is fundamental to establishing these democratic institutions and traditions.

Withdrawing from these commitments, and the programs which the organization and its grantees are currently running will undermine the goals which we all embrace.

We are reorienting our priorities in the post-cold-war era to support emerging democracies and to create politically and economically stable countries. NED is our frontline force to carry out these policies.

Accordingly, I urge my colleagues to reject any effort to cut funding for the National Endowment for Democracy.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, 12 years ago, Salvador, Guatemala, Nicaragua, and Panama were all dictatorships. I witnessed elections in every one of those working with the National Endowment for Democracy. This same effort can be made throughout the rest of the world. Democracy can advance, but it needs our help.

Mr. MOLLOHAN. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in very strong support of NED and in opposition to the Hefley amendment.

Mr. Chairman, I rise today in strong opposition to the Hefley amendment.

We are witness to an unprecedented era of democratization across the globe. Happily, in our world today, more people than ever are living in free or partly free countries.

We have seen the dramatic overthrow of communism in East-Central Europe. By 1992, the U.S.S.R. no longer existed. And while there are serious problems confronting Russia its peoples continue to back President Yeltsin's vision of a Russia moving toward market reform and privatization. We have seen free elections in Nicaragua, and the triumph of the democratic opposition.

We have seen the bravery of men and women around the world, from Chile to China to Cambodia, raising their voices and risking their lives for freedom and justice and in some cases to exercise the fundamental right to vote for the type of government they choose to live under.

To accept the proposed amendment would destroy an organization that has actively and constructively furthered democracy worldwide and seriously cripple a major U.S. foreign policy objective to shore up democracies worldwide.

Mr. Chairman, we cannot afford to dilute our efforts at helping those activists and organization who seek to promote and strengthen democratic institutions.

This is not the time nor the program to scale back our efforts. If there is a cost-saving mechanism this is it. This is a small investment in people and programs that can yield extraordinary dividends in years to come if we but keep the vision within sight. The real fact is that we cannot afford the failure of those groups, individuals, and programs that NED supports.

It is in our national interests that democracy be actively promoted abroad.

Mr. Chairman, NED was created by the Congress in 1983. It has the support and cooperation of members of both political parties, of conservatives and liberals, of business leaders, and labor activists, and of thousands of citizens across the globe who are committed to democratic development.

Since its inception, NED has successfully assisted hundreds of organizations working for freedom and democracy in dozens of countries worldwide.

During the past year NED has provided assistance in almost 80 countries—in Africa, Asia, Europe, Latin America, and the Middle East. It has supported women's leadership conferences, election monitoring activities, political party training, programs, grassroots participation and technical assistance to local governments, political parties, parliaments, businesses, and civic groups. Our support for NED has been a small investment that has already delivered a tremendous return and promises much more.

As Cochairman of the Commission on Security and Cooperation in Europe, I am particularly familiar with NED's work in East-Central Europe and in Russia. Nobody needs to be reminded of the sweeping changes we have seen in those regions—changes that continue to impress and inspire.

But while communism seemed to collapse overnight, democracy will take years to secure. And while NED's assistance has directly contributed to the democratic changes that have already taken place in East-Central Europe, I want to stress that NED's continuing assistance will be vital to ensure that democracy survives.

Mr. Chairman, I understand my colleagues' concern that NED's funds be carefully and comprehensively accounted for and spent wisely. Certainly, we all have a responsibility to ensure that taxpayer dollars are responsibly spent. But killing the endowment is not the solution.

It will send a terrible signal to the numerous democratic organizations that depend on NED for assistance. It will send a terrible signal to the brave individuals around the world who rely on NED's commitment to democracy. It will send a terrible signal to the fledgling democracies at a time when they need our determined support. In short, it will be a terrible mistake.

In my experience, NED has been ready and wiling to work with the Congress, not against us. I urge my colleagues to support the cause of democracy and vote against the Hefley amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I rise to ask my colleagues to oppose this amendment to eliminate all, all of the funds, for the National Endowment for Democracy. The National Endowment is a good and valuable program worthy of our support.

Mr. Chairman, a few short months ago I traveled to South Africa. I was there just 3 weeks before the historic elections in which majority rule was finally won by the people of South Africa. During my stay in South Africa I had the opportunity to meet with many groups and individuals who were receiving funding through the National Endowment for Democracy.

Among the people I met with were voter education workers, both Americans and South Africans, who were teaching people the value of democracy, teaching them the importance of voting, teaching them how to mark their ballots and cast their vote. These may seem like basic things to all of us here in America, but in emerging democracies, these are the values we can share and teach. Freedom, democracy, voting rights, civil rights; surely, these are things worthy of appropriation.

Let us invest in democracy, let us invest in freedom, let us defeat the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, this Government spends over $500 million a year on voluntary family planning programs overseas, which is essentially handing out condoms to poor people; $35 million on screwworm research, which has already been eradicated from the United States; and $168 million for the National Endowment

for the Arts, which channels limited tax dollars to "artists" who, among other things, denigrate religion, and are often so weird that they can't sell their works to anyone who has a choice in the matter.

That's almost three-quarters of a billion dollars of useless Government spending, and I could go on, believe me. I have one of the highest ratings with the National Taxpayers Union, but we are not talking about cutting useless spending. We are talking about cutting a program which bolsters the cause of freedom and democracy.

This is not foreign aid, which I oppose, let's be clear about that. I do not support building dams, bridges, and roads overseas, when we are cutting essential services to our own people here in America. But, once again, NED should not be confused with foreign aid. This is not about cutting Government spending. This is about whether or not we are taking our commitment to democracy, freedom, and human rights seriously. Whether those who long for freedom can look to us, not for a handout, but for leadership, for a commitment.

This is the time to consolidate our victory during the cold war. A time in history when the potential for the expansion of freedom and democracy are at their highest. This is a time of dramatic change. New relationships and new governments are being formed across the globe. To shrink from this titanic battle of ideas is irresponsible. This time will pass us by, an opportunity to build a better world, a freer world will be lost, if we disengage.

If we vote to kill NED today, and tomorrow's world turns out to be haunted by despots and dictators, we will have only ourselves to blame. If our security is threatened by a world awash in tyranny, we can look to our own timidity and retrenchment.

This is exactly the time for vigorous support of democracy-building programs, and the efforts of the National Endowment for Democracy. If you want to cut spending, let's get the A-to-Z plan out here on the floor.

Ronald Reagan was NED's first advocate. He knew that NED would be symbolic of our values, of what we really stand for. He knew that these values would ultimately win the cold war. With the cold war won, it falls to us to continue the epic struggle for freedom.

NED is America's way to hold up our end of the bargain after having encouraged people worldwide to embrace democracy. NED allows America to be on the side of people who have, often times, followed the American example and put their lives on the line for freedom. If they are free, they can solve their own problems without U.S. largess.

Mr. Chairman, we should be willing to support this puny commitment. Vote "no" on the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. PORTER]

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, in the wake of the cold war, we have an historic opportunity to promote our Nation's values of human rights, rule of law, democracy, and free markets. I would be a tremendous disservice to our children and future generations if we were to squander this opportunity by withdrawing inward.

The National Endowment for Democracy is important in our effort to cultivate the fruits of the cold war. We provide funding to NED because it is in our Nation's best interest. It is to our strategic interest to have other democratic governments around the world. I cannot think of a time the United States has been at war with another democracy. It is to our economic interest to have new markets for our goods and strong trading partners to provide our markets with goods. And it is in our moral, human interest to promote human rights and rule of law to people in the far corners of the globe. Human rights are indivisible. Whenever anyone's human rights are violated, it is a threat to every one of us.

NED promotes U.S. interests in an incredibly cost effective way, too. In the area of human rights, for example, NED sponsors over 50 small human rights organizations in some of the most vicious dictatorships, including China, Burma, Indonesia, Vietnam, Zaire, Liberia, Iraq, and Cuba. These programs usually receive small grants of less than $25,000, but their impact is disproportionately great.

NED human rights programs have been endorsed by the Dalai Lama, Elena Bonner, the Vietnam Committee on Human Rights, Iraqi human rights activists, Fang Lizhi, the father of the Chinese human rights movement, Dr. Sein Win, cousin of Burma's jailed leader Daw Aung San Suu Kyi, and many others. The Vietnam Committee said, simply, "The NED enabled us to survive."

Mr. Chairman, this amendment is not in our Nation's best interest and I urge Members to oppose it.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong opposition to the Hefley amendment. I cannot think of a worse message we can send to democrats around the world who are reaching out to us for support. What would it say, for example, to those fighting to overcome authoritarian rule in a country such as Nigeria, where the military has refused to honor the will of the people as expressed in a free and fair election held a year ago?

As a Board member of the National Endowment for Democracy, I am familiar with its work in support of human rights and democracy in Nigeria. But you should not simply take my word for it. Listen to the words of the executive director of the highly acclaimed Civil Liberties Organization:

> For us in Nigeria who are struggling to enthrone democracy and permanently end military dictatorship, the National Endowment for Democracy is like oxygen. If it is scrapped, the democratization process in Africa would be seriously endangered.

Of course, the Endowment's work in Africa is not limited to Nigeria. In the current year it is supporting a broad range of groups that have joined the continent-wide movement for multiparty democracy that began several years ago. Certainly the inspiring events of the past year in South Africa, where the Endowment and its core grantees played an important role in helping the people prepare for the momentous election last April, have contributed significantly to that movement.

Nevertheless, the tragic events in Rwanda remind us that major challenges remain for those Africans seeking peaceful, democratic solutions to age-old problems. Among these challenges are:

Growing ethnic clashes in Kenya, where the Endowment is funding the work of Dr. Wangari Mothai's Greenbelt Movement to relieve the tensions and assist local residents in the Rift Valley;

Continued human rights violations in Zaire, where NED is supporting four separate groups documenting abuses, providing legal assistance, and rallying international support;

A lack of grassroots participation, particularly in rural areas and among women, a problem which is being addressed through NED-funded seminars and workshops in a wide range of countries from Ethiopia and Somalia in the East to Mali and Sierra Leone in the West.

One of our pioneers of the democracy movements in Africa, a young lawyer named Sadikou Alao, has parlayed Endowment support for a small civic organization which began in Benin 3 years ago into a network of chapters with over 2,000 members working in 20 African countries. He has called NED "one of the greatest props to the ongoing democratization process on the continent."

Mr. Chairman, I do not wish to leave the impression that the Endowment is working in only one part of the world. Indeed, it is an international program that reaches out to those everywhere who realize that freedom and human rights are not simply luxuries that only certain countries can afford. If time permitted I would discuss NED's current programs in the Middle East. It is working there with committed

democrats who can be among the next generation's leaders if only we can help give them the support they so desperately need.

One thing I can guarantee: we cannot help them if we end this program. In fact, the costs to us by terminating funding for the National Endowment for Democracy are almost beyond calculation. I urge my colleagues to defeat this harmful amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

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Mr. RICHARDSON. Mr. Chairman, I want to thank the gentlewoman from California for her outstanding work on human rights in Tibet, and the Dalai Lama, and China.

Mr. Chairman, I yield to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Hefley amendment.

Mr. Chairman, I rise today in opposition to the Hefley amendment to eliminate all funds for the National Endowment for Democracy [NED]. NED plays an important role in promoting democratic reform in numerous locations around the world.

It is clear that the end of the cold war has presented the world with a new kind of challenge and a new level of ethnic and regional conflict. Establishing and strengthening democratic principles is an important cost-effective action. NED is well-positioned to advance democratic reforms and deserves adequate funding.

While I am aware of NED's good work to promote democracy in a number of countries, I will focus today on its contributions to the fight for freedom in China. In fiscal year 1994, the Endowment is spending under $1.5 million to support initiatives for its entire China program. It is stretching its limited funds to support a host of initiatives by dissidents both inside China and in exile. These activities include documenting human rights abuses; providing legal support for political prisoners inside the country, and promoting worker rights by supporting the work of leading labor activists, including Han Dongfang.

The acclaimed human rights activist Fang Lizhi has said,

It would be wonderful if democracy did indeed grow automatically out of economic development, but history gives us, unfortunately, no such guarantees. In the actuality of China today, the economic growth that we see has not in the slightest moved the current leaders in China to alter their autocratic rule.

Mr. Chairman, the support for democratic activists provided by the National Endowment for Democracy is critical if China is going to move down a path of respect for the fundamental rights of its citizens.

Supporting the development and nourishment of democratic institutions offers us the best hope of providing long-term solutions to some of the world's most serious problems. I urge my colleagues to defeat the Hefley amendment.

Mr. RICHARDSON. Mr. Chairman, if the Dalai Lama were here, or Vaclav Havel, or Lech Walesa, or Yelena Bonner, or Aung San Suu Kyi, as my colleague from Illinois mentioned, they would urge defeat of this amendment.

With the National Endowment for Democracy, you have Republicans and Democrats standing behind democratic institutions, standing behind elections and promoting human rights and democratic values.

Mr. Chairman, the best case for the National Endowment for Democracy was made last week in the Dominican Republic. It is possible that the election there was not free and fair. Who is certifying the results? Who are the observers? It is the National Endowment for Democracy. They do good work and deserve our support.

Defeat the Hefley amendment.

I urge you to oppose the Hefley amendment to cut funding for the National Endowment for Democracy.

NED promotes democratic values, making U.S. national interests safer worldwide;

NED builds a coalition among U.S. business, labor, and Democrats and Republicans for strengthening democratic, legal, and human rights institutions.

NED supports democratic forces when the U.S. Government cannot;

NED provides Congress with timely information and has instituted management reforms;

NED provides grants to projects for strengthening democratic institutions and processes;

NED's budget has already been cut;

The fiscal year 1995 budget request is 27 percent less than the President's request and is significantly less than NED received for fiscal year 1994;

Funding for international affairs is scarce;

It is important that as the United States moves away from cold war spending, we invest in promoting democracy abroad.

The Dalai Lama, Vaclav Havel, Lech Walesa, Oscar Arias, Elena Bonner, and Fang Lizhi have praised NED's work and supported NED's efforts in their countries.

NED has worldwide reach—from Russia to Cambodia to South Africa—and is an effective tool for furthering United States interests abroad.

NED PROGRAMS IN BURMA

In fiscal year 1994, the Endowment is spending less than a half million dollars for programs in Burma, one of the world's harshest dictatorships. This funding has been used to provide infrastructure support to the National League for Democracy, the exiled democracy movement headed by Nobel Peace Laureate Aung San Suu Kyi, as well as support for radio broadcasting into Burma by the exiled democratic movement. It also supports a leadership training program, a newsletter and an award-winning video that provides information on human rights abuses in the country.

Dr. Sein Win, the Prime Minister-in-exile of the National Coalition Government of the Union of Burma, wrote last year that NED support has played a "vital role in the promotion of democracy" in Burma and throughout Asia. He goes on:

We, the Third World people, in Asia, Africa, and Latin America still have to struggle for democracy, freedom and justice against ruthless dictatorships. The NED's coordination and support for our struggles, in the face of severely limited resources, is very crucial.

NATIONAL COALITION GOVERNMENT OF THE UNION OF BURMA, OFFICE OF THE PRIME MINISTER,

JULY 4, 1993.

Senator DANIEL P. MOYNIHAN,
Washington, DC.

DEAR SIR, Firstly, I would like to express my deep gratitude for your unwavering support and extend the best wishes on behalf of the National Coalition Government of the Union of Burma (NCGUB).

According to information reaching here, the House of Representatives have drastically reduced the allotment of fund to the National Endowment for Democracy (NED) on the assumption that the end of the cold war has made its role to be of less importance.

We, the Third World people, in Asia, Africa and Latin America still struggle for democracy, freedom and justice against ruthless dictatorships. The NED's coordination and support for our struggles, in the face of severely limited resources, is very crucial.

In 1992 and 1993 the NED has funded training of the democratic forces of Burma in non-violence action, international travels of leaders for lobbying activities, NLD information office through the International Republican Institute, the Democratic Voice of Burma radio broadcast station in Olso and the publication of newsletter "Burma Alert."

We have achieved much in our struggle because of the support given by the NED. In view of the fact that China and neighbouring countries are abetting the military junta of Burma directly or indirectly, the continued assistance from the NED for us is essential.

Accordingly, I would like to request you to kindly see to it that the NED receive enough budget allotment from the Congress so that it may continue its vital role of the promotion of democracy especially in Burma and Asia.

Very cordially yours,

Dr. SEIN WIN,
Prime Minister.

Mr. HEFLEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, communism and dictatorships; fund groups that overseas want to do those things, make sure human rights groups have resources, but for good, solid reasoning; tell me why the Republican Party should be the one to dole out the funds, the Democratic Party should be the one to dole out the funds, the AFL–CIO should be the one to dole out the funds.

I do not understand why we are asking these groups to do what is so very important. Why these groups instead of the Government of the United States?

The gentleman before us mentioned Mr. Arias and how he would be supportive. It just so happens in past years we helped defeat him out of NED. The problem is NED works at cross-purposes. It is not coordinated. It is political groups that are using these funds as they see fit.

In my judgment, it should not be that way. It should be with government doing government policy.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana [Mr. ROEMER], who will end debate on our side.

Mr. ROEMER. Mr. Chairman, I often come to this floor to try to focus an eye on budget cuts.

Today I think we are out of focus, trying to cut the NED. This is a program that we need in America today.

As we are emphasizing reinventing government, we are emphasizing smaller rather than big, as we are emphasizing ways by which to remold the world and try to get United States interests in terms of democracy and human rights, as we are looking at ways in which to cut foreign aid or to refocus foreign aid, this is not the direction to go.

Right now in Mexico, the NED is working with a new civic alliance to promote free and fair elections in 1994. That is in our direct interest.

In Africa where we are experiencing drought in Zaire and Zambia and Rwanda, falling apart, we are investing in Kenya to try to ease ethnic tensions; please, ladies and gentlemen, vote to fund the National Endowment for Democracy.

Mr. Chairman, I rise today to oppose the Hefley amendment to eliminate funding for the National Endowment for Democracy.

If you vote to abolish funding for the NED, you are voting to end many important international projects in countries in which the United States has security and human rights interests. For example, with an NED grant, Mexico's Civic Alliance, a newly created coalition of over 300 organizations, is working on an extensive program of monitoring and observation for the 1994 presidential elections, which have been marred by accusations that the electoral authorities are controlled by the ruling PRI.

As the world watches helplessly as ethnic warfare tears apart Rwanda, the NED is working in other Central African countries to ensure that the Rwandan tragedy is not repeated. For 2 years, the agency has worked in Kenya to ease ethnic tensions through education programs. The NED has also made a small grant to a Ugandan organization to monitor the human rights situation in the region.

As my colleagues know, I often vote to reduce funding for unnecessary and outdated Government programs. I firmly believe that the NED is the wrong agency on which to focus our budget-cutting eye.

The NED takes a relatively modest amount of Federal money, invests it wisely, and works to ensure democracy. One need only look at South Africa and the Middle East to see that the NED truly gets results.

Support democracy—oppose the Hefley amendment.

Mr. HEFLEY. Mr. Chairman, I yield myself 30 seconds, the remainder of my time.

Mr. Chairman, let me just say in closing that I understand the arguments that have been made. I agree with the arguments that we want to promote democracy.

If you remember the one chart we have showed, we show we have all kinds of ways to promote democracy through this country without this private, and many times rather amateurish, kind of approach.

All over the world as we were researching this, we were told about the absolute bungling and mismanagement of amateurs who were sent into this field of very important foreign relations, and created all kinds of difficulties with it, in addition to good things that have been mentioned that have been talked about here tonight.

So I would renew my encouragement that we save this money and spend it in a much more meaningful way.

Mr. ROGERS. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE]

Mr. HYDE. Mr. Chairman, there are 13 words that describe why we need the National Endowment for Democracy. Those words are Russia, Ukraine, the former Yugoslavia, South Africa, Poland, Hungary, the Czech Republic, Cyprus, and I will cut it off at 13. We will leave out Nogorno-Karabakh and Azerbaijan and the rest.

But democracy is very painfully developing around the world. Some places it is not developing at all.

Yes, communism has been defeated, but Communists are showing up and winning elections in Central Europe and other places. Poland is far from out of the woods.

The National Endowment for Democracy is the private sector getting into places and doing things that government cannot do.

There is a suspicion of governmental agencies, the CIA, the FBI, but when labor, when management, when Republicans and Democrats, not as agents of the Government but of the private sector, want to help build democracy. I cannot think of a more useful mission extant in the world today.

Now, we fund the National Endowment for the Arts, we fund the National Endowment for Humanities seven times more than the little piddling sum we give the National Endowment for Democracy. Important as the humanities are, important as the arts are, they do not mean much without a democratic world. Moving toward that is the function of NED.

We ought to support it overwhelmingly. I say that with some dismay, because I have never known the gentleman from Colorado [Mr. HEFLEY] to be wrong except this time.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in strong opposition to this amendment. To stop funding for the National Endowment for Democracy would deal a serious blow to people and organizations around the world who embrace the same ideals and values as our own and who struggle daily for the opportunities which we quite often take for granted.

The National Endowment for Democracy, far from being a cold war holdover, only having value if there exists a Soviet Union, enables the United States to support democratic movements throughout the world in peaceful and creative ways. It supports organizations which promote human rights, freedom of speech, free and fair elections, education in democracy, and development of private enterprise—organizations which share our values and ideals.

In the past year NED has supported such programs as the Center for Law and Human Rights Education in Liberia whose educational programs directly reached 45,000 students in Africa's oldest independent nation. This program provided rehabilitation and civic education, taught concepts of human rights to activists and law students, and supported the only legal aid clinic which represented victims of human rights abuse.

The Endowment enabled the NDI, IRI, CIPE, and FTUI to sponsor a seminar in Romania which brought together over 200 people representing trade unions, entrepreneurs, journalists and human rights activists from around the country in order to foster a culture of democracy.

In Slovakia, the Milan Simecka Foundation was able to develop a curriculum for human rights education on the secondary school level and training programs for educators.

The NED supported the work of the Laogai Research Foundation, which documented the use of prison labor in China. Last month, Harry Wu, a former prisoner and victim of the Chinese prison labor system, presented evidence that showed beyond doubt that China continues to violate the MOU with the United States and that products of prison labor continue to be exported to the United States.

The Tibet Fund was able to distribute materials inside Tibet where the distinctive religious and cultural heritage are threatened and where uncensored news and information are not available.

Among the programs funded in Vietnam, the Institute for Democracy in Vietnam was able to strengthen the democratic forces by publishing materials, supporting pro-democracy and human rights organizations, and radio broadcasts.

Grants from NED enable Freedom House to distribute humanitarian aid through independent human rights groups and books on prodemocratic topics in Cuba.

Mr. Chairman, these are only a few examples of the many programs which the National Endowment for Democracy funds each year; programs which enable the United States to support democratic reforms, human rights and free market economies. To say the NED "has no place in a world without the Soviet Union" ignores the millions of people world-wide who struggle every day for freedom, democracy, and human rights. The goal of NED was not only the defeat of communism, it should continue to exist to promote and expand the values and ideals of democracy around the world; and that task is far from complete.

Cutting NED support now would send the message that the United States no longer cares about the struggle to establish secure and stable democratic governments around the world. This, Mr. Chairman, is the wrong message to send. Investment in NED is not only a humanitarian investment, it is also a strategic investment that serves the interests and security of the United States.

Mr. Chairman, I oppose this amendment and I urge my colleagues to oppose it as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

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

RECORDED VOTE

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

PARLIAMENTARY INQUIRY

Mr. ROGERS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROGERS. Mr. Chairman, in the event there is a vote certified on this amendment, would we, after this vote, vote on the other remaining votes to be voted?

The CHAIRMAN. The Chair will announce that pursuant to the previous order of the House of today, after this 15-minute vote on the Hefley amendment, if ordered, the Chair will resume proceedings on the three postponed questions for possible 5-minutes votes if ordered.

Does that clarify the situation?

Mr. ROGERS. I have a further parliamentary inquiry, Mr. Chairman. Do we have to call for a vote on each of the successive 5-minute votes, and if so, how?

The CHAIRMAN. The pending business will be the pending request for a recorded vote on each of those questions.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 89, noes 317, not voting 33, as follows:

[Roll No. 283]

AYES—89

Allard	Hefley	Roth
Andrews (ME)	Hoekstra	Roukema
Andrews (NJ)	Holden	Sanders
Archer	Inglis	Santorum
Baker (LA)	Jacobs	Schaefer
Barca	Kanjorski	Schroeder
Barrett (NE)	Kaptur	Sensenbrenner
Barrett (WI)	Kleczka	Shays
Boehner	Klug	Shuster
Callahan	Knollenberg	Sisisky
Camp	Kreidler	Smith (MI)
Clay	LaRocco	Snowe
Coble	Lazio	Solomon
Collins (GA)	Lewis (FL)	Stenholm
Condit	Lightfoot	Strickland
Conyers	Mann	Stump
Crane	Manzullo	Sundquist
DeFazio	Margolies-Mezvinsky	Swett
Duncan	Mazzoli	Talent
Emerson	McInnis	Tanner
Fingerhut	McKinney	Tauzin
Frank (MA)	McNulty	Taylor (MS)
Gekas	Mica	Thurman
Gonzalez	Miller (CA)	Upton
Grams	Myers	Walker
Green	Orton	Weldon
Hall (TX)	Quillen	Wyden
Hamburg	Quinn	Yates
Hancock	Ramstad	Zeliff
Hansen		Zimmer

NOES—317

Abercrombie	Armey	Baker (CA)
Ackerman	Bacchus (FL)	Ballenger
Andrews (TX)	Bachus (AL)	Barcia
Applegate	Baesler	Barlow
Bartlett	Gilchrest	Mink
Barton	Gillmor	Moakley
Bateman	Gilman	Molinari
Becerra	Gingrich	Mollohan
Beilenson	Glickman	Montgomery
Bentley	Goodlatte	Moorhead
Bereuter	Goodling	Moran
Berman	Gordon	Morella
Bilbray	Goss	Murphy
Bilirakis	Grandy	Murtha
Blute	Greenwood	Nadler
Boehlert	Gunderson	Neal (MA)
Bonilla	Gutierrez	Neal (NC)
Bonior	Hall (OH)	Norton (DC)
Borski	Hamilton	Nussle
Boucher	Harman	Oberstar
Brooks	Hastert	Obey
Browder	Hayes	Olver
Brown (CA)	Hefner	Ortiz
Brown (OH)	Herger	Packard
Bryant	Hinchey	Pallone
Bunning	Hoagland	Parker
Burton	Hobson	Pastor
Buyer	Hochbrueckner	Paxon
Byrne	Hoke	Payne (NJ)
Calvert	Horn	Payne (VA)
Canady	Houghton	Pelosi
Cantwell	Hoyer	Penny
Cardin	Huffington	Peterson (FL)
Carr	Hughes	Peterson (MN)
Castle	Hunter	Petri
Chapman	Hutchinson	Pickett
Clayton	Hutto	Pickle
Clement	Hyde	Pomeroy
Clinger	Inhofe	Porter
Clyburn	Inslee	Portman
Coleman	Istook	Poshard
Collins (IL)	Jefferson	Price (NC)
Collins (MI)	Johnson (CT)	Rahall
Combest	Johnson (GA)	Ravenel
Cooper	Johnson (SD)	Reed
Coppersmith	Johnson, E. B.	Regula
Costello	Johnson, Sam	Richardson
Cox	Johnston	Roberts
Coyne	Kasich	Roemer
Cramer	Kennedy	Rogers
Crapo	Kennelly	Rohrabacher
Cunningham	Kildee	Romero-Barcelo (PR)
Danner	Kim	Ros-Lehtinen
Darden	King	Rowland
de la Garza	Kingston	Roybal-Allard
de Lugo (VI)	Klein	Royce
Deal	Klink	Sabo
DeLauro	Kolbe	Sangmeister
DeLay	Kopetski	Sarpalius
Dellums	Kyl	Sawyer
Derrick	LaFalce	Saxton
Deutsch	Lambert	Schenk
Diaz-Balart	Lancaster	Schiff
Dickey	Lantos	Schumer
Dicks	Laughlin	Scott
Dingell	Leach	Serrano
Dixon	Lehman	Sharp
Dooley	Levin	Shaw
Doolittle	Levy	Shepherd
Dornan	Lewis (CA)	Skaggs
Dreier	Lewis (GA)	Skeen
Dunn	Lewis (KY)	Skelton
Durbin	Linder	Slattery
Edwards (CA)	Lipinski	Slaughter
Edwards (TX)	Livingston	Smith (IA)
Ehlers	Lloyd	Smith (NJ)
Engel	Long	Smith (TX)
English	Lowey	Spence
Eshoo	Lucas	Spratt
Evans	Machtley	Stark
Everett	Maloney	Stearns
Ewing	Manton	Stokes
Farr	Markey	Studds
Fawell	Martinez	Stupak
Fazio	Matsui	Swift
Fields (LA)	McCrery	Synar
Filner	McCurdy	Taylor (NC)
Flake	McDade	Tejeda
Foglietta	McDermott	Thomas (CA)
Fowler	McHale	Thomas (WY)
Franks (CT)	McHugh	Thompson
Franks (NJ)	McKeon	Thornton
Frost	Meek	Torkildsen
Furse	Menendez	Torres
Gallegly	Meyers	Traficant
Gallo	Mfume	Tucker
Gejdenson	Michel	Underwood (GU)
Gephardt	Miller (FL)	Unsoeld
Geren	Mineta	Valentine
Gibbons	Minge	Velazquez
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walsh
		Waters
		Watt
		Waxman
		Wheat
		Williams
		Wilson
		Wise
		Wolf
		Woolsey
		Wynn
		Young (AK)
		Young (FL)

NOT VOTING—33

Bevill	Hastings	Reynolds
Bishop	Hilliard	Ridge
Blackwell	McCandless	Rose
Bliley	McCloskey	Rostenkowski
Brewster	McCollum	Rush
Brown (FL)	McMillan	Smith (OR)
Faleomavaega (AS)	Meehan	Torricelli
Fields (TX)	Owens	Towns
Fish	Oxley	Washington
Ford (MI)	Pombo	Whitten
Ford (TN)	Pryce (OH)	
	Rangel	

□ 2039

Mr. GREENWOOD changed his vote from "aye" to "no."

Messrs. TAYLOR of Mississippi, YATES, GONZALEZ, SMITH of Michigan, and HALL of Texas, Ms. MARGOLIES-MEZVINSKY, Mr. MYERS of Indiana, and Mr. SWETT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to the order of the House of today, proceedings will now resume on those amendments to title V on which further proceedings were postponed in the following order: first, the amendment offered by the gentleman from Florida [Mr. STEARNS]; second, the amendment offered by the gentleman from Washington [Mr. INSLEE]; and, third, the amendment offered by the gentleman from Illinois [Mr. PORTER].

□ 2040

AMENDMENT OFFERED BY MR. STEARNS

The CHAIRMAN. The pending business is the demand of the gentleman from Florida [Mr. STEARNS] for a recorded vote on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 284, noes 122, not voting 33, as follows:

[Roll No. 284]

AYES—284

Allard	Barca	Boehlert
Andrews (ME)	Barcia	Boehner
Andrews (NJ)	Barlow	Bonilla
Applegate	Barrett (NE)	Brooks
Archer	Barrett (WI)	Browder
Armey	Bartlett	Bunning
Bacchus (FL)	Barton	Burton
Bachus (AL)	Bentley	Buyer
Baesler	Bereuter	Byrne
Baker (CA)	Bilbray	Callahan
Baker (LA)	Bilirakis	Calvert
Ballenger	Blute	Camp

Canady
Cantwell
Castle
Chapman
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Eshoo
Everett
Ewing
Farr
Fawell
Fields (LA)
Filner
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Huffington
Hughes
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kildee
Kim
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Martinez
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McNulty
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Morella
Murphy
Myers
Neal (MA)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Roemer
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Torres
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—122

Abercrombie
Ackerman
Andrews (TX)
Bateman
Becerra
Beilenson
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (OH)
Bryant
Cardin
Carr
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
de Lugo (VI)
Dellums
Derrick
Dingell
Dixon
Edwards (CA)
Engel
English
Evans
Fazio
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gutierrez
Hamburg
Hinchey
Houghton
Hoyer
Hyde
Johnson (SD)
Johnson, E. B.
Johnston
Kennedy
Kennelly
King
Kolbe
Kopetski
LaFalce
Leach
Levin
Levy
Lewis (CA)
Lewis (GA)
Lipinski
Mann
Markey
Matsui
Mazzoli
McDermott
McKinney
Meek
Mineta
Mink
Mollohan
Moran
Murtha
Nadler
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Pastor
Payne (NJ)
Pelosi
Pickle
Price (NC)
Reed
Richardson
Rogers
Rohrabacher
Romero-Barcelo (PR)
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sharp
Skaggs
Slaughter
Smith (IA)
Stark
Stokes
Studds
Swift
Synar
Thompson
Thornton
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wilson
Woolsey
Wyden
Yates

NOT VOTING—33

Bevill
Bishop
Blackwell
Bliley
Brewster
Brown (FL)
Faleomavaega (AS)
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Hastings
Hilliard
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Wheat
Whitten

□ 2048

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. McCollum against.

Mr. ENGEL changed his vote from "aye" to "no."

Messrs. MILLER of California, CLEMENT, PORTER, HOCHBRUECKNER, DURBIN, BARLOW, NEAL of Massachusetts, VOLKMER, MOAKLEY, and BARLOW, and Ms. LAMBERT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. INSLEE

The CHAIRMAN. The pending business is the demand of the gentleman from Washington [Mr. INSLEE] for a recorded vote on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 268, noes 139, not voting 32, as follows:

[Roll No. 285]

AYES—268

Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Browder
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
Deal
DeLay
Deutsch
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fields (LA)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Huffington
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (GA)
Johnson, Sam
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kreidler
Kyl
Lambert
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (KY)
Linder
Lipinski
Lloyd
Long
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sanders
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vucanovich
Walker
Weldon
Williams
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—139

Abercrombie	Gonzalez	Murphy
Ackerman	Hall (OH)	Murtha
Bacchus (FL)	Hamburg	Nadler
Bateman	Hamilton	Neal (MA)
Becerra	Hefner	Norton (DC)
Beilenson	Hinchey	Oberstar
Bereuter	Houghton	Obey
Berman	Hoyer	Olver
Bonior	Hughes	Pastor
Borski	Hyde	Payne (NJ)
Boucher	Jefferson	Pelosi
Brooks	Johnson (CT)	Peterson (FL)
Brown (CA)	Johnson (SD)	Price (NC)
Bryant	Johnson, E. B.	Richardson
Byrne	Johnston	Rogers
Cardin	Kanjorski	Romero-Barcelo (PR)
Carr	Kaptur	Roybal-Allard
Clay	Kennedy	Sabo
Coleman	Klink	Sangmeister
Collins (IL)	Kolbe	Sawyer
Collins (MI)	Kopetski	Scott
Conyers	LaFalce	Serrano
Coyne	Lancaster	Skaggs
de la Garza	Lantos	Slaughter
de Lugo (VI)	Lewis (CA)	Smith (IA)
DeFazio	Lewis (GA)	Stark
DeLauro	Lightfoot	Stokes
Dellums	Livingston	Studds
Derrick	Lowey	Swift
Diaz-Balart	Maloney	Synar
Dingell	Manton	Torres
Dixon	Markey	Underwood (GU)
Durbin	Martinez	Valentine
Edwards (CA)	Matsui	Vento
Engel	Mazzoli	Visclosky
Eshoo	McDermott	Volkmer
Evans	Meek	Walsh
Farr	Menendez	Waters
Fazio	Mfume	Watt
Filner	Michel	Waxman
Flake	Miller (CA)	Wheat
Foglietta	Mineta	Wilson
Frank (MA)	Mink	Wise
Gejdenson	Moakley	Wolf
Gephardt	Mollohan	Yates
Gibbons	Moran	
Gilman	Morella	

NOT VOTING—32

Bevill	Ford (TN)	Rangel
Bishop	Hastings	Reynolds
Blackwell	Hilliard	Ridge
Bliley	McCandless	Rose
Brewster	McCloskey	Rostenkowski
Brown (FL)	McCollum	Rush
Faleomavaega (AS)	McMillan	Smith (OR)
Fields (TX)	Meehan	Torricelli
Fish	Owens	Towns
Ford (MI)	Pombo	Washington
	Pryce (OH)	Whitten

□ 2058

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. Towns against.

Mr. BROWN of Ohio changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PORTER

The CHAIRMAN. The pending business is the demand of the gentleman from West Virginia [Mr. MOLLOHAN] for a recorded vote on which further proceedings were postponed and on which the "ayes" prevailed by voice vote.

The Clerk will redesignate the amendment.

RECORDED VOTE

The CHAIRMAN. The gentleman from West Virginia [Mr. MOLLOHAN] has demanded a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 318, noes 89, not voting 32, as follows:

[Roll No. 286]

AYES—318

Abercrombie	Fawell	Levin
Ackerman	Fazio	Levy
Andrews (ME)	Fields (LA)	Lewis (CA)
Andrews (NJ)	Filner	Lewis (FL)
Armey	Fingerhut	Lewis (KY)
Bacchus (FL)	Foglietta	Lightfoot
Bachus (AL)	Fowler	Linder
Baker (CA)	Franks (CT)	Lipinski
Baker (LA)	Franks (NJ)	Livingston
Ballenger	Frost	Lloyd
Barca	Furse	Long
Barcia	Gallegly	Lucas
Barrett (NE)	Gallo	Machtley
Barrett (WI)	Gejdenson	Maloney
Bartlett	Gekas	Manton
Barton	Gephardt	Manzullo
Bateman	Gilchrest	Margolies-Mezvinsky
Becerra	Gillmor	Markey
Beilenson	Gilman	Mazzoli
Bentley	Gingrich	McCrery
Bereuter	Glickman	McCurdy
Berman	Goodlatte	McDade
Bilbray	Goodling	McDermott
Bilirakis	Gordon	McHale
Blute	Goss	McHugh
Boehlert	Grams	McInnis
Boehner	Grandy	McKeon
Bonilla	Greenwood	McKinney
Bonior	Gunderson	McNulty
Borski	Gutierrez	Meek
Brown (OH)	Hall (OH)	Menendez
Bunning	Hall (TX)	Meyers
Burton	Hamburg	Mica
Buyer	Hamilton	Michel
Byrne	Hancock	Miller (CA)
Callahan	Hansen	Miller (FL)
Calvert	Harman	Mineta
Camp	Hastert	Minge
Canady	Hayes	Mink
Cantwell	Herger	Molinari
Cardin	Hinchey	Montgomery
Castle	Hoagland	Moorhead
Clayton	Hobson	Morella
Clement	Hochbrueckner	Nadler
Clinger	Hoekstra	Neal (MA)
Clyburn	Hoke	Neal (NC)
Coble	Horn	Norton (DC)
Collins (IL)	Houghton	Nussle
Collins (MI)	Hoyer	Ortiz
Combest	Huffington	Orton
Conyers	Hunter	Oxley
Cooper	Hutchinson	Packard
Coppersmith	Hyde	Pallone
Costello	Inglis	Parker
Cox	Inhofe	Paxon
Coyne	Inslee	Pelosi
Crane	Istook	Penny
Crapo	Jacobs	Peterson (FL)
Cunningham	Jefferson	Petri
Danner	Johnson (CT)	Pickett
de la Garza	Johnson (GA)	Pickle
de Lugo (VI)	Johnson (SD)	Pomeroy
DeFazio	Johnson, E. B.	Porter
DeLay	Kaptur	Portman
Deutsch	Kasich	Poshard
Diaz-Balart	Kennedy	Quinn
Dickey	Kennelly	Ramstad
Dicks	Kildee	Ravenel
Dingell	Kim	Regula
Dooley	King	Richardson
Doolittle	Kingston	Roberts
Dornan	Kleczka	Roemer
Dreier	Klein	Rohrabacher
Dunn	Klug	Romero-Barcelo (PR)
Durbin	Knollenberg	Ros-Lehtinen
Edwards (CA)	Kolbe	Roybal-Allard
Edwards (TX)	Kopetski	Royce
Ehlers	Kreidler	Sanders
Emerson	Kyl	Sangmeister
Engel	Lambert	Santorum
English	Lancaster	Sarpalius
Eshoo	Lantos	Sawyer
Evans	LaRocco	Saxton
Everett	Lazio	Schaefer
Ewing	Leach	Schenk
Farr	Lehman	Schiff
		Schumer
		Scott
		Sharp
		Shaw
		Shays
		Shepherd
		Shuster
		Sisisky
		Skeen
		Skelton
		Slattery
		Slaughter
		Smith (MI)
		Smith (NJ)
		Smith (TX)
		Snowe
		Solomon
		Spence
		Spratt
		Stark
		Stearns
		Strickland
		Studds
		Stump
		Stupak
		Sundquist
		Swett
		Talent
		Tanner
		Tauzin
		Taylor (MS)
		Taylor (NC)
		Tejeda
		Thomas (CA)
		Thompson
		Thornton
		Torkildsen
		Torres
		Tucker
		Underwood (GU)
		Unsoeld
		Upton
		Valentine
		Velazquez
		Vento
		Volkmer
		Vucanovich
		Walker
		Walsh
		Waxman
		Weldon
		Wheat
		Williams
		Wolf
		Woolsey
		Wyden
		Young (AK)
		Young (FL)
		Zeliff
		Zimmer

NOES—89

Allard	Green	Peterson (MN)
Andrews (TX)	Hefley	Price (NC)
Applegate	Hefner	Quillen
Archer	Holden	Rahall
Baesler	Hughes	Reed
Barlow	Hutto	Rogers
Boucher	Johnson, Sam	Roth
Brooks	Johnston	Roukema
Browder	Kanjorski	Rowland
Brown (CA)	Klink	Sabo
Bryant	LaFalce	Schroeder
Carr	Laughlin	Sensenbrenner
Chapman	Lewis (GA)	Serrano
Clay	Lowey	Skaggs
Coleman	Mann	Smith (IA)
Collins (GA)	Martinez	Stenholm
Condit	Matsui	Stokes
Cramer	Mfume	Swift
Darden	Moakley	Synar
Deal	Mollohan	Thomas (WY)
DeLauro	Moran	Thurman
Dellums	Murphy	Traficant
Derrick	Murtha	Visclosky
Dixon	Myers	Waters
Duncan	Oberstar	Watt
Flake	Obey	Wilson
Frank (MA)	Olver	Wise
Geren	Pastor	Wynn
Gibbons	Payne (NJ)	Yates
Gonzalez	Payne (VA)	

NOT VOTING—32

Bevill	Ford (TN)	Rangel
Bishop	Hastings	Reynolds
Blackwell	Hilliard	Ridge
Bliley	McCandless	Rose
Brewster	McCloskey	Rostenkowski
Brown (FL)	McCollum	Rush
Faleomavaega (AS)	McMillan	Smith (OR)
Fields (TX)	Meehan	Torricelli
Fish	Owens	Towns
Ford (MI)	Pombo	Washington
	Pryce (OH)	Whitten

□ 2105

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. Hastings against.

Mr. ROTH changed his vote from "aye" to "no."

Mrs. LLOYD changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

(a) Of the budgetary resources available to the United States Information Agency during fiscal year 1995, $1,440,000 are permanently canceled.

(b) The Director of the United States Information Agency shall allocate the amount of

budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

This may be cited as the "Department of State and Related Agencies Appropriations Act, 1995".

Mr. LIVINGSTON. Mr. Chairman, I am having difficulty hearing. Could the Chair tell me exactly where we are in the bill?

The CHAIRMAN. The Clerk has just competed the reading of title V and is about to begin the reading of title VI, General Provisions.

Mr. LIVINGSTON. Has the Chair begun the reading of title VI?

The CHAIRMAN. No. Title VI will be read by section.

Mr. LIVINGSTON. Mr. Chairman, I ask unanimous consent that Title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana [Mr. LIVINGSTON]?

Mr. MOLLOHAN. Mr. Chairman, would the Chair please repeat the request?

The CHAIRMAN. The gentleman from Louisiana [Mr. LIVINGSTON] has asked unanimous consent to open title VI at any point.

Does the gentleman from West Virginia [Mr. MOLLOHAN] concur in that request?

Mr. MOLLOHAN. Mr. Chairman, we have no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana [Mr. LIVINGSTON]?

There was no objection.

The text of title VI is as follows:

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees on both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both House of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. (a) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

(b) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), conversion, or modernization of aircraft for the National Oceanic and Atmospheric Administration in facilities located outside the United States and Canada.

Titles I through VI of this Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995".

The CHAIRMAN. Are there any points of order against title VI?

Are there any amendments to title VI?

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to offer an amendment at the conclusion of my remarks.

Mr. Chairman, I hope that Members will come to order and attempt to listen to some of the things I have to say here, because I think that they will be very much interested in what I am about to do.

Mr. Chairman, I have an amendment that I hope to offer, and I hope it will be voted upon and accepted by the House. It will prevent the President of the United States from obligating funds for any international peacekeeping mission that would require the deployment of United States forces in Haiti. Basically, Mr. Chairman, my amendment intends to say that when we go off on our recess for July 4 for 2 weeks, we should not wake up and find out that we have invaded Haiti without at least an opportunity to express ourselves in Congress on whether or not that should happen.

Mr. Chairman, we are saying that the President of the United States should do essentially the same as did former President George Bush, when he came to Congress and asked for the authorization of Congress before going forward with Operation Desert Storm.

There are a lot of reasons, Mr. Chairman, I suppose, that we could justify an invasion of Haiti. We could say that it is geographically close.

We could say that there is no democracy there. We could say that it is totalitarian. We could say that there is great suffering in Haiti. All of those might be right. However, Members could, for those very same reasons make the very same arguments about Cuba.

□ 2110

If we are going to be invading places in the Caribbean, I suggest that in Cuba, there is abundant lack of democracy, a totalitarian government, tremendous suffering, and, of course, Cuba is much closer to us than Haiti is. Of course Cuba suffers under Fidel Castro, and has since 1959.

Mr. Chairman, I do not think that we have justification for invading Haiti, and I do not think for that matter we should be invading Cuba. The fact is, an invasion of Haiti is not in our national interest.

Mr. Chairman, I do not think that there will ever be a problem of whether or not the United States can take Haiti. Probably in 35 minutes, it will all be done. But what will happen then? We went into Haiti once before in this century, and we stayed 20 years. We could not get out. What will happen when our young men and women in uniform go to Haiti this time, and they find that there are riots and looting and sniping and terrorism? When they get shot, or when they get hacked with machetes, what are we going to tell their parents if we invade Haiti, and our people in uniform start dying with regularity?

Are we going to tell them it is because we are there to restore democracy and to restore Mr. Aristide, the man who has openly espoused necklacing? I saw him on a T.V. tape today. A lot of people say he did not espouse necklacing. I saw him do it. I watched that tape.

He said that necklacing, the practice of putting a rubber tire around a person's neck, filling it with gasoline and setting him on fire was "cute, pretty, that it had a good smell, and that young students should use it when you must."

Mr. Chairman, he is no "democrat" with a small "d," and we do not have any business risking the lives of our young men and women in uniform to restore him to power in Haiti. In fact, I say that Jean Bertrand Aristide is not worth one American life. Furthermore, if we are down there messing around in Haiti, what happens if things really go bad with that nuclear problem in North Korea? Are we going to be diverting our attention to one small insignificant place in the Carribean and all of a sudden find ourselves in real trouble on the other side of the globe? I do not think that is a very good way to spend the Fourth of July. I do not think that any of us want to explain to our constituents that we are in Haiti, invading Haiti, on our Independence Day.

Mr. Chairman, I am going to offer an amendment that I suspect may be stricken on a point of order, a rule or whatever, and we will not get an up or down vote. If, in fact, there is no objection, fine. We will get an up or down vote on my motion. Otherwise, I may have to resort to other means, perhaps a motion to recommit, or perhaps other technical means at my disposal. But we ought to have a vote on this issue—one way or another.

Mr. Chairman, I know that this House will not be doing its duty to the American people, if we go home for the Fourth of July recess without saying to the President of the United States:

"Before you go mucking around in the Caribbean and sending our kids to invade Haiti, you must first come to us for authorization."

Mr. LIGHTFOOT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Louisiana [Mr. LIVINGSTON] and I offered this amendment to the Committee on Rules and we were denied at that point. Basically all it does is limits funds in the peacekeeping section of this bill from being used for U.N. peacekeeping operations in Haiti in which United States troops would be deployed without first seeking the authorization of the American people through the Congress.

Mr. Chairman, I have heard enough of U.N. Ambassador Albright to know that I want some insurance against the continued policy of aggressive multilateralism. I would bring to the House's attention a June 15 Washington Times story which indicates that Deputy Secretary of State Talbot told U.N. officials "the United States is poised to invade Haiti within 2 months." This was on June 15.

Mr. Chairman, anyone who doubts the Washington Times or this administration's commitment to aggressive multilateralism and invading small countries should take a look at the New York Times just this past Saturday. That story reports the administration is now trying to put together a U.N. peacekeeping force of 14,000 to nation-build in Haiti; 7,000 of those people are Americans.

Mr. Chairman, let me be very clear about one point that has caused some confusion about the amendment. The amendment does not, I underline, does not, prevent the President from committing the United States to acting unilaterally in this matter nor does the amendment prejudge what decision this House would make. But if the President decides time and policy allows the United States to work through the Security Council process with the blessings of Boutros Ghali, then I think time also allows for an authorization from the American people whose sons and daughters will be sent to Haiti and do that through the Congress.

Mr. Chairman, what scares me most is that this President seems to have learned nothing from the Somalian disaster. Rather than demonstrating a national interest in invading Haiti and securing the consent of Congress, he would rather circumvent Congress. Using the United Nations as a tool and working through the United Nations having received the proper authorization from Congress would work to the President's long-term advantage.

Mr. Chairman, all of us support the restoration of democracy in Haiti, but this House is very divided over the proper course. Twice we have voted on Haiti and twice we have reached a very different conclusion.

I would hope this House at least agrees that if we are going to deploy troops to Haiti, Congress should be consulted before our sons and daughters are placed in harm's way. It is a simple matter of asking the American people if they are willing to send their sons and daughters to a military invasion of Haiti. That is all we are asking that we do.

AMENDMENT OFFERED BY MR. LIVINGSTON

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

The Clerk read as follows:

Amendment offered by Mr. LIVINGSTON: On Page 96, after line 19, insert the following new section:

SEC. 607. None of the funds provided by this Act may be used for Contributions for International Peacekeeping Operations or Activities for any United Nations peacekeeping operation related to Haiti in which United States troops are deployed, without prior authorization of Congress.

POINT OF ORDER

Mr. MOLLOHAN. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MOLLOHAN. Mr. Chairman, the amendment is a limitation to a general appropriation bill. Under the revised clause 2, rule XXI, such amendments are not in order during the reading of a general appropriation bill.

Mr. Chairman, the revised rule states in part.

Except as provided in paragraph (d), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

Mr. Chairman, the gentleman's amendment is a limitation and is not specifically contained or authorized in existing law and therefore is in violation of clause 2(c) of rule XXI. It is also legislation in an appropriations bill.

I ask for a ruling from the Chair.

The CHAIRMAN. Does the gentleman from Louisiana [Mr. LIVINGSTON] desire to be heard?

Mr. LIVINGSTON. I do, Mr. Chairman,

The CHAIRMAN. The gentleman from Louisiana is recognized.

Mr. LIVINGSTON. Mr. Chairman, I do wish to be heard on the point of order.

Mr. Chairman, this amendment again prevents the President of the United States from obligating funds for any further peacekeeping mission that would require the deployment of United States forces in Haiti without first coming to Congress.

An identical amendment was offered during the full Committee on Appropriations consideration of the bill. Unfortunately, it was defeated 17 to 32 on largely a party line vote. I feel that we should allow the rest of the House to vote on this vital issue.

Mr. Chairman, if the President wants to use the United Nations as a tool to send United States troops to Haiti, he should be required to seek authorization from Congress.

The Chair may rule this amendment out of order because it is a funding limitation and is not offered at the appropriate time. However, I am offering this amendment to the general provisions title of the bill that funds our international peacekeeping efforts.

□ 2120

So as the President has already informed the United Nations that he wants a multilateral invasion of Haiti within 2 months if the sanctions do not unseat the military rulers, this is our only opportunity to send the President a message. It only seems appropriate that this amendment be made in order without defeating the motion on a ruling.

I hope that the Chair will, indeed, make a ruling that this amendment is, in fact, in order.

The CHAIRMAN. Does any other Member desire to be heard on the point of order?

Mr. MFUME. Mr. Chairman, I recognize the gentleman's desire, as he said, that we ought to vote on this.

But this House is governed by a set of rules some of which speak to the matter of germaneness.

I would ask the Chair to support the point of order raised by the previous gentleman and to rule this out of order.

The CHAIRMAN. The Chair is prepared to rule unless additional Members desire to speak on the point of order.

Mr. CUNNINGHAM. Mr. Chairman, only last week the Committee on Rules waived the rules on three Federal courthouses. I voted for those, because I thought it was important. If we are going to hide in this Chamber behind a point of order on not voting to invade Haiti, I think that is wrong, and I think that we require or need an up-or-down vote on this as our responsibility in Congress and not hide behind the rule.

If we can do it for three Federal courthouses, we can sure do it when it comes to an invasion of Haiti.

Mr. MFUME. Mr. Chairman, the discussion should, in fact, be on the point of order and not on hypotheticals. I would argue that we are out of order in that regard.

The CHAIRMAN (Mr. BROWN of California). The Chair is constrained to rule that the gentleman was not speaking to the point of order.

The Chair is prepared to rule on the point of order.

The Chair, for the reasons stated by the gentleman from West Virginia, namely, that while the amendment assumes the form of a limitation, it also actually contains legislation on an appropriation bill requiring subsequent congressional approval, is constrained to uphold the point of order made by the gentleman from West Virginia.

PARLIAMENTARY INQUIRY

Mr. LIVINGSTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. LIVINGSTON. Mr. Chairman, if the Chair's ruling is sustained, is it not then in order for the gentleman from Louisiana to offer a similar amendment to limit funds on a motion to recommit?

The CHAIRMAN. The Chair cannot speculate on what could be in a motion to recommit in the House.

Mr. LIVINGSTON. I thank the Chairman. I look forward to offering such a motion.

AMENDMENT OFFERED BY MR. TRAFICANT

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

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 96, after line 19, insert the following new section:

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contact with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, there is a lot of discussion on funds for a lot of reasons, to promote democracy overseas. I think my amendment would promote a little democracy in America with a few jobs.

I would appreciate it if the Committee would accept it and pass over this amendment without prejudice and keep it in the conference.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, we have looked at the gentleman's amendment and have no objections to it. We accept it. It was in the bill last year. We have talked with the minority about this, and I think that we are in agreement to accept the amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, we have no objection to the amendment.

Mr. TRAFICANT. Mr. Chairman, Radio Free Asia will be working when the Chinese start buying some Motorolas. I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CONDIT.

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

The Clerk read as follows:

Amendment offered by Mr. CONDIT: Page 96, after line 19, insert the following new section:

SEC. 607. There is appropriated out of any money in the Treasury not otherwise appropriated for fiscal year 1995 for expenses necessary to carry out section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) to reimburse States for costs of incarcerating illegal aliens an amount equal to, and each amount appropriated or otherwise made available by titles I through VI of this Act (other than by this section) that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by, $600,000,000 and 2.5 percent, respectively.

Mr. CONDIT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONDIT. Mr. Chairman, my colleague, Congresswoman THURMAN and I are offering the Condit-Thurman Amendment to Commerce-Justice-State Appropriations for fiscal year 1995. This amendment provides $600 million to local and state governments which have born the cost of incarcerating criminal aliens. A cost which is a federal responsibility!

As you know Mr. Chairman, the Immigration Reform and Control Act of 1986 authorizes reimbursement to States for these costs in section 501, which is codified in 8 United States Code 1365. In addition, on April 20, the House approved our amendment authorizing reimbursement for incarcerating criminal aliens in an en-bloc amendment that was adopted by a vote of 402 to 22.

$600 million is the amount scored by the Congressional Budget Office as necessary to fully reimburse state and local governments in fiscal year 1995. Illegal immigration is a Federal responsibility Mr. Chairman, yet we are abdicating this responsibility.

The Condit-Thurman amendment give Congress the opportunity to own-up to its commitments and provides the funding for reimbursing State and local governments after many years of allocating scarce resources to their jails and prisons. Criminal aliens are in State and county jails because the Federal Government has failed to enforce immigration laws. The U.S. criminal alien population totals 4 percent of all the U.S. prison population. California alone incarcerates 55 percent of all criminal aliens in the United States and can no longer continue to be expected to pay for costs which the Federal Government has failed to pay. A 2.5 percent cut across the board is the only fair way of funding this program.

With regard to the Byrne Program, the $20.1 reduction could be considered the incarcerated alien portion of the $446 million increase of Byrne. Our amendment still leaves sizable amount of $784.2 million for State law enforcement programs under Byrne. Therefore, States without incarcerated criminal aliens do not lose under our amendment.

Another important provision of the Condit-Thurman amendment is that these funds would be appropriated directly to section 501 of the Immigration Reform and Control Act versus the current proposal of filtering criminal alien reimbursement moneys through the Byrne grant formula. This policy does not do justice to States because by filtering funds through the Byrne formula you force States to choose between reimbursing for criminal aliens and much needed law enforcement programs like additional police officers on crime prevention programs.

Lastly, under the formula currently mandated for the Byrne Grant Program, States with no criminal alien populations get a larger share of the moneys but will not have to make the tough choices that criminal alien impacted States will have to make. We

must protect this reimbursement by separating it from other Department of Justice programs which may be subject to pressures from other programs within and outside the DOJ.

Mr. Chairman, the Condit-Thurman amendment is supported by national and international law enforcement organizations like California Peace Officers Association, California Highway Patrol, International Association of Chiefs of Police and the California Police Chiefs Association. Chiefs of Police from all the affected States met with me and many members of Congress to discuss this issue and to convey to us their inability to allocate their law enforcement resources to programs that really prevent further crime problems.

Should we not listen to law enforcement in our State and local governments? Aren't they the people whom we were elected to represent? Can we continue to strap local and state governments' budgets? We are not proposing a new program. We are not proposing new spending. The Federal Government should live up to its' commitments. This is not a California issue. It is not a Florida, Texas, or New York issue. It is an issue of fiscal responsibility. It is an issue of fairness to State and local governments. It is an issue of right versus wrong.

Mr. Chairman, I yield to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in support of the Condit-Thurman amendment, which would provide $600 million for the State Criminal Alien Assistance Program [SCAAP], the full amount needed by States to pay for the costs of incarcerating criminal aliens.

Nationwide, there are 35,000 or more criminal aliens incarcerated in State prisons. California alone houses more than 18,000 undocumented felons, at a cost projected to exceed $390 million this year. And California is not alone. New York spends an estimated $63 million annually in incarceration costs; Florida estimates its annual burden to be in excess of $58 million; and Texas calculates a 1993 liability of $52 million. Yet, while State and local governments have the responsibility for incarcerating criminal aliens and processing their cases, they have no jurisdiction, obviously, over the enforcement of immigration laws, no authority to deport aliens who are convicted of crimes, and no authority to ensure that those deported are not permitted to reenter the country.

As Mr. CONDIT pointed out, Congress recognized the unfairness of this situation in the 1986 Immigration Reform and Control Act [IRCA], where it acknowledged the Federal Government's responsibility for the criminal alien population. Section 501 of that Act specifically authorizes the reimbursement to States of costs incurred in the imprisonment of illegal aliens. Unfortunately, however, this commitment has yet to be fulfilled, because Congress has failed to appropriate any funding at all for that purpose.

Two months ago, the House of Representatives reaffirmed the Federal Government's responsibility for the criminal alien population when it approved an amendment I offered, along with Representatives BERMAN, CONDIT, and THURMAN, to H.R. 3355, the Omnibus Crime Bill. That amendment, which is currently being considered in the House-Senate conference committee, would ensure that if the Federal Government does not provide reimbursement to States for the cost of incarcerating criminal aliens through the regular funding process, beginning in 1998, that funding will be mandated by law. Our amendment provided, further, that local governments, as well as States, would be reimbursed.

In the wake of that vote, the Clinton administration sent to Congress a proposal to provide $350 million for the coming fiscal year for the State Criminal Alien Assistance Program. Although that proposal was not a sufficient amount to provide full reimbursement, it was significant, in that it marked the first time that a President has ever requested funding for this program, which Congress had authorized 8 years ago.

The Appropriations Committee's response to the Administration's request, which was already far below full funding has been a disappointment to many of us from States with large populations of incarcerated aliens. This appropriations bill merely allows states to use funds from the very popular Edward Byrne Formula Grant Program to pay for the cost of incarcerating criminal aliens. That means that California and other affected States will have to choose between using these funds for the costs of criminal aliens, or for other important purposes such as crime and drug prevention programs.

Under the bill, the Byrne program grants will be increased, but even if California, for example, chooses to use its full increase to pay costs of incarcerating criminal aliens, that amount would provide just $48 million, or about one-sixth of the amount the State needs for that purpose. Other States with large populations of incarcerated criminal aliens face a similar situation. This shortfall of funding can, and should, be rectified by passing this amendment, which will provide $600 million to reimburse States for the costs of incarcerating illegal aliens.

It is also important that we not set a precedent of reimbursing states for the incarceration of criminal aliens out of the Byrne grant program, which would force States to spend funds which have traditionally been used for effective local law enforcement programs to pay for a Federal responsibility. The Clinton administration requested that reimbursement to states for costs associated with criminal aliens be funded through a separate State Criminal Alien Assistance Program [SCAAP]. Unfortunately, the Appropriations Committee decided, instead, to fund this program in a manner that forces States to choose between local programs that work, and funds they are rightfully due.

Beyond passing this amendment, we also need to redouble our efforts to ensure that counties and cities are also eligible for these funds. It is critical that the House-Senate conference committee on the crime bill adopt the House-passed amendment that provides reimbursement for local government entities, as well as States.

I am sympathetic to the constraints that the gentleman from West Virginia [Mr. MOLLOHAN] and the members of his subcommittee faced in writing this bill—their budget allocation was a full $1.2 billion below the President's request—and I thank the gentleman for his subcommittee's efforts to increase the size of the border patrol above the level requested by the President. I also recognize that the reason we have had so much difficulty getting the Federal Government to assume the costs that California and many other States are unfairly burdened with is the Federal Government's very serious budget deficit problem. Getting the Federal Government to pay for something that States are currently paying for—even though it is the right thing to do—means operating at cross purposes with our efforts to reduce Federal budget deficits. But it is important to realize that States are also facing major budget shortfalls due in large part to the Federal Government's abdication of its responsibility for the incarceration of criminal aliens and for the provision of services to undocumented aliens.

To restate the basic point about reimbursing States for the costs of criminal aliens: incarcerating criminals who are here in the U.S. illegally is a Federal responsibility. The Federal Government is responsible for preventing people from entering the U.S. illegally, and if it fails to do so, then it should be obligated to assume the burden of paying for illegal entrants who commit crimes. It is unfair for States to be burdened with that responsibility.

Mr. Chairman, this amendment provides relief to States for the cost of incarcerating people who have entered our country in violation of Federal laws. This cost should be borne by all U.S. citizens, not just those who live in regions with large numbers of illegal immigrants.

I urge my colleagues to support this amendment.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes.

Mr. SOLOMON. Reserving the right to object, and I may not object, but I

just was wondering how we are going to allocate the time.

I would like to speak on behalf of the gentleman's amendment, and we do not want to be cut short on it either.

What is the intent of limiting the debate time? Are we still under the 5-minute rule?

Mr. MOLLOHAN. No. Mr. Chairman, if the gentleman will yield, I would say to the gentleman that under my unanimous consent request we would have 20 or 30 minutes, whatever we could agree on, for total time to debate this issue, debating the amendment and any amendments to the amendment.

Mr. SOLOMON. So the gentleman's recommending 20 minutes for the opponents and 20 minutes for the proponents?

Mr. MOLLOHAN. No. A total of 20. Let me get some sense: If it is 30 minutes' time limit, it would be 15 minutes on each side.

Mr. SOLOMON. I regrettably have to object to that at the present time. I do not think there is going to be that much time, but some of us coming from some of these States like New York, Texas, and California have serious problems, and we want to talk about it. So if the gentleman would just withhold briefly and make his request in about 10 minutes, I think it might very well go through.

The CHAIRMAN. Objection is heard.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, much of the cost of this bill is contained in section 5 dealing with U.N. peacekeeping, and the gentleman's amendment cuts that as well as everything else in the bill by 2½ percent. The scale of assessments to pay for U.N. peacekeeping, and I think Members will be interested to find out a little more of what is being talked about.

I have here an itemized list showing the percentage of the U.N. peacekeeping budget that each U.N. member has been assessed to pay for 1994.

The United States comes in first and highest at 31.8 percent.

Moving on down the list, and rounding each number off to the nearest hundredth of a percent, we find Japan—in second place—at 12.5 percent, compared to America's assessment of almost 32 percent, then comes Germany at 9.0 percent, compared to America's assessment of almost 32 percent. Russia, 8.6 percent, France, 7.6 percent, Great Britain, 6.4 percent, Italy, 4.3 percent, Canada, 3.1 percent, Spain, 2.0 percent, Ukraine, 1.9 percent, Australia, 1.5 percent, The Netherlands, 1.5 percent, Sweden, 1.1 percent, and Belgium, 1.1 percent. Then, guess who? China weighs in with just under 1 percent—at number 15 on the list.

That's right. Belgium, with a population of only 10 million people, pays a higher assessment than does China.

But that's typical of the kind of problem we run into when the formulation and conduct of U.S. foreign policy is subcontracted to multilateral organizations.

Mr. Chairman, this list goes on and on. By my count, 153 members of the United Nations each pay less than one-tenth of 1 percent of the peacekeeping budget. Some 56 of these members each pay only one-hundredth of 1 percent.

This misguided reliance on multilateralism, as a substitute for clear-headed U.S. policy, has got to stop. Support the Rogers amendment and send a message.

U.N. PEACEKEEPING SCALE OF ASSESSMENTS

[In percent]

		Peacekeeping scale 1994	Regular budget scale 1992–94
1	China	0.978	0.77
2	France	7.615	6.00
3	Russian Federation	8.618	6.71
4	United Kingdom	6.372	5.02
5	United States	31.795	25.00
	Subtotal perm 5	55.219	43.50
6	Andorra	0.010	0.01
7	Australia	1.518	1.51
8	Austria	0.754	0.75
9	Bolarus	0.482	0.48
10	Belgium	1.065	1.06
11	Canada	3.125	3.11
12	Denmark	0.658	0.65
13	Finland	0.573	0.57
14	Germany	8.974	8.93
15	Iceland	0.030	0.03
16	Ireland	0.181	0.18
17	Italy	4.311	4.29
18	Japan	12.512	12.45
19	Liechtenstein	0.010	0.01
20	Luxembourg	0.060	0.06
21	Monaco	0.010	0.01
22	Netherlands	1.507	1.50
23	New Zealand	0.241	0.24
24	Norway	0.553	0.55
25	San Marino	0.010	0.01
26	South Africa	0.412	0.41
27	Spain	1.990	1.98
28	Sweden	1.116	1.11
29	Ukraine	1.879	1.87
	Subtotal group B	41.976	41.77
30	Albania	0.002	0.01
31	Algeria	0.032	0.18
32	Argentina	0.115	0.57
33	Armenia	0.026	0.13
34	Azarbaijan	0.044	0.22
35	Bahamas	0.004	0.02
36	Bahrain	0.005	0.03
37	Barbados	0.002	0.01
38	Bolivia	0.002	0.01
39	Bosnia/Hercegovina	0.006	0.04
40	Brazil	0.320	1.59
41	Brunei Darussalam	0.005	0.05
42	Bulgaria	0.025	0.18
43	Cambodia [1]	0.002	0.01
44	Cameroon	0.002	0.01
45	Chile	0.018	0.08
46	Colombia	0.025	0.15
47	Congo	0.002	0.01
48	Costa Rica	0.002	0.01
49	Cote D'Ivaire	0.004	0.02
50	Croatia	0.025	0.13
51	Cuba	0.018	0.09
52	Cyprus	0.004	0.02
53	Dem PR of Korea	0.010	0.05
54	Dominican Republic	0.004	0.02
55	Equador	0.006	0.09
56	Egypt	0.014	0.07
57	El Salvador	0.002	0.01
58	Estonia	0.014	0.07
59	Fiji	0.002	0.01
60	Gabon	0.004	0.02
61	Georgia	0.042	0.21
62	Ghana	0.002	0.01
63	Greece	0.071	0.35
64	Guatamala	0.004	0.02
65	Guyana	0.002	0.01
66	Honduras	0.002	0.01
67	Hungary	0.038	0.18
68	India	0.073	0.38
69	Indoniesia	0.052	0.16
70	Iran	0.155	0.77
71	Iraq	0.025	0.13
72	Israel	0.046	0.23
73	Jamaica	0.002	0.01
74	Jordan	0.002	0.01
75	Kazakhstan	0.071	0.35
76	Kenya	0.002	0.01
77	Kuwait	0.050	0.25
78	Kyrgystan	0.012	0.06

U.N. PEACEKEEPING SCALE OF ASSESSMENTS—Continued

[In percent]

		Peacekeeping scale 1994	Regular budget scale 1992–94
79	Latvia	0.025	0.13
80	Lebanon	0.002	0.01
81	Liberia [1]	0.002	0.01
82	Libya	0.048	0.24
83	Lithuania	0.030	0.15
84	Malaysia	0.024	0.12
85	Malta	0.002	0.01
86	Marshal Islands	0.002	0.01
87	Mauritius	0.002	0.01
88	Mexico	0.177	0.85
89	Micronesia (Fed States)	0.002	0.01
90	Republic of Moldova	0.030	0.15
91	Mongolia	0.002	0.01
92	Morocco	0.008	0.03
93	Nicaragua	0.002	0.01
94	Nigeria	0.040	0.20
95	Oman	0.006	0.03
96	Pakistan	0.012	0.06
97	Panama	0.004	0.02
98	Paraguay	0.004	0.02
99	Peru	0.012	0.06
100	Philippines	0.014	0.07
101	Poland	0.095	0.47
102	Portugal	0.040	0.20
103	Quatar	0.010	0.05
104	Republic of Korea	0.139	0.69
105	Romania	0.034	0.17
106	Saudi Arabia	0.193	0.96
107	Singapore	0.024	0.12
108	Slovania	0.016	0.09
109	Sri Lanka	0.002	0.01
110	Swaziland	0.002	0.01
111	Syria	0.008	0.04
112	Tejikistan	0.010	0.05
113	Thailand	0.022	0.11
114	The Former Yugoslav Republic of Macedonia	0.004	0.02
115	Trinidad & Tobago	0.010	0.05
116	Tunisia	0.006	0.03
117	Turkey	0.055	0.27
118	Tuskmanistan	0.012	0.06
119	United Arab Emirates	0.042	0.21
120	Uruguay	0.008	0.04
121	Uzbakistan	0.052	0.25
122	Venezuela	0.099	0.49
123	Vietnam	0.002	0.01
124	Yugoslavia [2]	0.028	0.14
125	Zaire [1]	0.002	0.01
126	Zambia [1]	0.002	0.01
	Subtotal group C	2.749	13.65
127	Afghanistan [1]	0.001	0.01
128	Angola	0.001	0.01
129	Antigua & Barbuda	0.001	0.01
130	Bangladesh [1]	0.001	0.01
131	Belize	0.001	0.01
132	Benin [1]	0.001	0.01
133	Bhutan [1]	0.001	0.01
134	Botswana [1]	0.001	0.01
135	Burkdna Faso [1]	0.001	0.01
136	Burundi [1]	0.001	0.01
137	Cape Verde [1]	0.001	0.01
138	Cent African Rep [1]	0.001	0.01
139	Chad [1]	0.001	0.01
140	Comoros [1]	0.001	0.01
141	Djibouti [1]	0.001	0.01
142	Dominica	0.001	0.01
143	Equatorial Guinea [1]	0.001	0.01
144	Enitrea	0.001	0.01
145	Ethiopia [1]	0.001	0.01
146	Gambia	0.001	0.01
147	Grenada	0.001	0.01
148	Guinea [1]	0.001	0.01
149	Guinea-Bissau [1]	0.001	0.01
150	Haiti [1]	0.001	0.01
151	Laos [1]	0.001	0.01
152	Lesotho [1]	0.001	0.01
153	Madagascar [1]	0.001	0.01
154	Malawi [1]	0.001	0.01
155	Maldives [1]	0.001	0.01
156	Mali [1]	0.001	0.01
157	Mauritania [1]	0.001	0.01
158	Mozambique [1]	0.001	0.01
159	Myanmar [1]	0.001	0.01
160	Namibia	0.001	0.01
161	Nepal [1]	0.001	0.01
162	Niger [1]	0.001	0.01
163	Papua New Guinea	0.001	0.01
164	Rwanda [1]	0.001	0.01
165	St. Kitts & Navda	0.001	0.01
166	St. Lucia	0.001	0.01
157	St. Vincent & Grenadines	0.001	0.01
168	Samoa [1]	0.001	0.01
169	Sao Tome e Principe [1]	0.001	0.01
170	Senegal	0.001	0.01
171	Seychelles	0.001	0.01
172	Sierra Leone [1]	0.001	0.01
173	Solomon Islands [1]	0.001	0.01
174	Somalia [1]	0.001	0.01
175	Sudan [1]	0.001	0.01
176	Surinam	0.001	0.01
177	Togo [1]	0.001	0.01
178	Uganda [1]	0.001	0.01
179	U. Rep. of Tanzania [1]	0.001	0.01

U.N. PEACEKEEPING SCALE OF ASSESSMENTS—Continued

[In percent]

		Peacekeeping scale 1994	Regular budget scale 1992–94
180	Vanuatu [1]	0.001	0.01
181	Yemen [1]	0.001	0.01
182	Zimbabwe	0.001	0.01
	Subtotal group D	0.056	0.56
	Grand total	100.00	[3] 99.51

[1] Included in the list of least developed countries.
[2] Figures are net of deductions for Bosnia/Harcegovina, Croatia, Slovenia, and The Former Yugoslav Republic of Macedonia.
[3] Slovakia and the Czech Republic have been temporarily excluded from the peacekeeping scale, pending a decision on whether to place them in Group B or Group C. Their Regular Budget assessments are 0.19% and 0.42% respectively. Thus the Regular Budget scale of assessments actually adds to 100.06%.

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Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I would love to yield to my friend, the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes a very interesting point. Does he realize this amendment only takes 2 to 2½ percent of these peacekeeping costs for this purpose while it cuts the FBI, the Border Patrol, the cops on the street, the DEA agents, and all of those other programs funded in the Justice Department and in the Commerce Department, instead of focusing on the target that the gentleman from New York thinks is so tempting?

Mr. SOLOMON. Let me reclaim my time and say that the gentleman makes an excellent point, and that is why at the end of my little debate here he will see what I am driving at.

Let me tell you something: Belgium, with a population of only 10 million people, pays a higher assessment than does China. But that is typical of the kind of problem we have run into when in the formulation and conduct of U.S. foreign policy it is subcontracted out to multilateral organizations. That is exactly what we are doing here with all this peacekeeping business.

Mr. Chairman, this list goes on and on. By my count there are 153 members of the United Nations and each pays less than one-fifth of 1 percent of the peacekeeping budget.

Some 56 of these members pay only one-thousandth of 1 percent. Mr. Chairman, this misguided reliance on multilateralism as a substitute for clear-headed U.S. policy has got to stop.

Support the Rogers amendment, which will be coming up at the end when we establish a new section. That is what we ought to be doing, what the gentleman from California [Mr. BERMAN] is driving at. Support the Rogers amendment and I will go along with you.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the Condit-Thurman amendment.

Mr. Chairman, this amendment is really ill-conceived. I think the Members must fully understand the consequences of this across-the-board cut. First of all, Mr. Chairman, I think it is necessary to explain the Crime Control Fund and how we funded the Crime Bill in this bill and what it does for Members.

So let me attempt to do that.

The Crime Control Fund amounts to $2.4 billion, Mr. Chairman. Out of that $2.4 billion we were asked by the administration, among other things, to fund Community Policing, we were asked to fund and upgrade criminal history records, we were asked to fund the President's immigration initiative which included controlling the border, expedited deportation provisions, asylum reform provisions, and other crime-control initiatives.

Mr. Chairman, as the committee approached this challenge, we decided that we would try to fund the Crime Bill in a way that put resources into the line, that beefed up our front line of defense against crime. The first challenge of course was community policing. This is a very strong priority, a high priority of the President and certainly most Members in this body.

The President asked $1.7 billion to fund that. We were able to fund it I think very generously at $1.3 billion. These funds will put another 39,000 policemen, federally funded, into our communities, in that Community Policing Program, the "cops on the beat" program, if you will.

We also looked at how we could beef up that front line, reinforce it. We funded almost 1,000 additional Border Patrol on the line to try to help stem the influx of illegal aliens into our country. And to do that at the point that they enter this country. That increase is on top of a 600-person Border Patrol increase last year.

That was only one of the immigration initiatives. In addition, we funded very generously the expedited deportation, increasing the number of administrative law judges and judges to consider the cases of the challenges to undocumented aliens.

We also did likewise for asylum reform so that we could expedite consideration of asylum cases.

Now in the process of doing that, very importantly, we received on one petition, I think, 120 Members of Congress signing a petition to restore the Byrne Grant Program, Mr. Chairman, an extremely popular program because it has been effective. It is a discretionary grant program, formula grant to the States and then discretionary on the part of the governors, to fund efforts to coordinate drug enforcement task forces. Extremely popular, extremely effective program.

We were asked by Members all across this House to restore and increase that funding for the Byrne Program. A majority of the Members of the House contacted us requesting that we restore funding for the Byrne Program.

We have done that. We have looked at these challenges and our budget allocation and funded this in a way that gives us the greatest budget authority and outlays in fashioning this bill. The way we did it was by increasing the Byrne Grant Program through an expanded Byrne Grant.

The way it was funded, Mr. Chairman, it doubles the amount of money each and every congressional district, in each and every State gets for the Byrne Program.

For example, just picking a State, the first State on the list, Alabama: Under the 1994 Byrne Program, Alabama was allocated at $5.827 million. Under the Expanded Byrne Program, Alabama receives a 125-percent increase to $13 million, an increase of $7,264,000 for the Byrne Grant Program.

Now in developing the expanded Byrne Grant Program, we included a part of the President's request for incarceration of illegal aliens, $150 million, and we included the traditional Byrne Grant Program.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] has expired.

(By unanimous consent, Mr. MOLLOHAN was allowed to proceed for 5 additional minutes.)

Mr. MOLLOHAN. Mr. Chairman, we included in the Byrne Grant Program not only the traditional 21 jurisdictions in the Byrne Grant Program but also the incarceration of illegal aliens and the upgrading of criminal history records.

By doing that we were able to get about $200 million more into the Crime Control Fund than we otherwise could have because of the BA/outlay challenge that we have. The Byrne Grant Program outlays at 22 percent, incarceration of illegal aliens outlays at 75 percent. By incorporating all of those programs within the Expanded Byrne Program we were scored at 22 percent outlays, which allowed us to put about $200 million more into crime-fighting than we otherwise would be able to do.

Mr. Chairman, the amendment that is offered by Mr. CONDIT, on which he has spoken, requires an across-the-board cut of the total bill and then funnel that money into incarceration of illegal aliens; $600 million I believe in rough numbers is the amount of money he is going to take out of all the other parts of the bill.

Now that is going to create a lot of mischief and damage to much of the bill that I want to articulate and speak to in just a moment.

Now there are a lot of programs in this bill that we are not fully funding. In fact, almost all of the programs in this bill we are not fully funding; even the crime-control programs. We would like to have 6,000 Border Patrol but we cannot afford it in this bill.

I submit to you that we cannot afford to fully fund illegal aliens no matter how meritorious the arguments of the States are. We received this request from the President in an amendment to his original budget. He requested $350 million. He is the first President to ask for funding for incarcerating illegal aliens. We are the first subcommittee to fund such a request of illegal aliens. Arguably we could not fully fund it, but we did provide funds for it in the expanded Byrne Program. If it is funded outside the expanded Byrne Program, it will take about $200 million out of crime fighting in the bill.

Now the way Mr. CONDIT has done it is not that way. He is having an across-the-board cut. That means instead of every State getting 125 percent more Byrne Grant money every State will get less Byrne Grant money by 2.3 percent. In addition, where the Committee increases the funding for the FBI, approximately 130-some agents, where we increase funding for the Drug Enforcement Administration, increase funding for the Marshals' Service, increase funding for the enhancement of our Border Patrol, every one of those accounts, those on the line, fighting crime in the streets, will be cut in order to fund incarceration of illegal aliens, which we cannot afford to fund at the full level we have been asked to do it.

I would implore Members to remember all those Members who asked us to enhance funding for the Byrne Grant Program, and appreciate our efforts to do so and in the process of doing it incorporated a program to fund as best we could the incarceration of illegal alien requests.

Mr. Chairman, I will speak to the specific accounts that are cut by the Condit-Thurman amendment a bit later in the debate. But I strongly rise in opposition to it, point out to Members that it will be to the disadvantage of each and every State in the Union as far as the Byrne Grant Program goes and will benefit only really California, if you assume a funding level of $150 million, but if you assume $600 million funding for incarceration of illegal aliens, seven States will be the only beneficiaries and every other State in the Union will lose significantly.

□ 2140

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that from this point forward all debate on this amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. CUNNINGHAM. Reserving the right to object, Mr. Chairman, if the gentleman takes out his time since, he just spent 10 minutes on his side of the issue, then I will not object.

Mr. MOLLOHAN. Mr. Chairman, I consciously did that because those who were supporting the amendment had done likewise, had taken about 10 minutes, so I thought that that would be acceptable.

Mr. CUNNINGHAM. Mr. Chairman, we had one speaker who took 5 minutes, and he yielded time, so if the gentleman would take 5 minutes out of his time, then I would not object.

Mr. MOLLOHAN. I am sorry; those speaking for the amendment had very close to, but not quite exactly, 10 minutes.

Mr. CHAIRMAN. Objection is heard.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are considering the crime bill, and, if we look, and I heard the figures, and I would like to dispute the figures because the gentleman from California said there is 18,000. If it includes aliens, it may be correct, but California has approximately 16,000 illegal aliens. Maybe the 18,000 included aliens. In the United States there is almost 84,000 aliens. Most of those are illegal, but some are in this country legally, and they have committed crimes, and they are in there also. But if he did not have those numbers in the jail, in the crime bill we are building new prisons. Think of the money we can save if we did not have them in our jails or at least if they were paid for, and I would like to thank the chairman.

Mr. Chairman, he is absolutely correct. He supported us with 600 Border Patrol, another thousand. We want 6,000. That is the best way to stop them at the border, and I thank the Chairman for doing that. But if my colleagues take a look, we are talking about States' dollars, and let me give an example:

Committee on Education and Labor, Federal dollars that go to education, we only give about 5 percent. California spends 95 percent of all State money to education. In fact, we only give them 5 percent. By law 40 percent of that budget has to go to education. Governor Wilson has asked for $4 billion to reimburse us for illegal immigration, which the 16,000 is a portion of that, Mr. Chairman. I say, "If you start off with $4 billion less than your account, then you're going to have less for education, for police and so on. If you take a look at those costs nationwide, that equates to almost $37 billion, and let me repeat that, $37 billion nationwide."

Now we are also trying to fund a health care bill. Take 5 years of $37 billion. We can fund any health care bill that comes up before us, and the gentleman may turn down this amendment, but I would ask for the support in dealing with a problem that we have of illegal immigration because it is not just law enforcement. The education costs, the health care costs, the welfare costs, and this is why we see so much debate on the issue itself.

California immigration, along with the other States, is not becoming just a border State problem. Take a look in each and every one of our States, and when the gentleman says it is going to cost money out of this committee, our point is, and he has helped us with the Border Patrol, that if this government mandates that we take care of illegal immigrants in our prison systems, and health care and the rest of it, and they cannot afford it, then they need to change their policy.

Governor Wilson 2 weeks ago asked and talked to the Senate. They said, "Governor, we would love to help you, but we don't have any money to help you." If that is the case, Mr. Chairman, then the Federal Government needs to change its policies, and even though the gentleman may not support this amendment, I would ask his help in supporting and helping us with illegal immigration problems, not only in the State of California, but nationwide.

Mr. MOLLOHAN. Mr. Chairman, I again ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes and that that time be equally divided between the gentleman from Kentucky [Mr. ROGERS] and myself.

Maybe there is some sense that we are at a more equal point, and there may be more receptivity for such a unanimous consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. LIVINGSTON. Reserving the right to object, Mr. Chairman, could the gentleman tell me how this might affect motions to rise, motions to recommit?

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will yield, it has absolutely nothing to do with it. I would submit to the distinguished gentleman from Louisiana [Mr. LIVINGSTON] that it has nothing to do with that. We are simply limiting debate on this amendment after we have already had a bit of debate.

Mr. LIVINGSTON. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The unanimous consent request to limit the time of debate on the amendment offered by the gentleman from California [Mr. CONDIT] is agreed to, and, as I understand it, the limitation will be 20 minutes, 10 minutes on each side with the gentleman from West Virginia [Mr. MOLLOHAN] sharing his time with the gentleman from Kentucky [Mr. ROGERS]. The gentleman from California [Mr. CONDIT] will control the other 10 minutes.

Mr. CONDIT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida [Mrs. THURMAN].

□ 2150

Mrs. THURMAN. Mr. Chairman, let me first respond to the gentleman from West Virginia a little bit here on some of his remarks.

Actually, in our count we found that most of our law enforcement actually around this country is supporting this amendment, because they see this is an issue of incarceration. And all the cops on the beat, and everything else you can have, actually does not allow them to incarcerate anybody, because their prisons are overflowing and they need these dollars to reimburse themselves to have more.

Let me remind the House on April 20 we actually passed the Beilenson-Berman-Condit-Thurman amendment by a vote of 403 to 22, in fact saying that we believe that we should in fact reimburse States for incarcerating criminal aliens.

Let me also remind you that in the Byrne amendment, we are not taking any money our except for the 2.5 percent we do across the board for everybody. That means that the increase that we went from $358 million to $804 million takes the same 2.5 cut as every other cut is taken in this, not destroying or hurting any of those States that were talked about.

Instead of getting 125 percent, they get 122 percent. I think that is a small portion to give back to those States who have been doing this burden.

Plus, remembering that the Byrne program in fact was never intended to be a reimbursement program for illegal alien criminals to put them in jail, it actually was used for another thing.

Let me also suggest to you something that really bothers me: Before I was here, this Congress, and the Congress before us, made a commitment under a 501 of the Immigration Reform and Control Act, to reimburse States for the problems that have been caused by the Federal Government through their policy, not through the State's policy.

Are we going to once again do what we have been doing and renege on exactly what we have said that we were going to do over the last years? Because we have not funded that one either.

So I am asking this House and my colleagues from those States, one, that have the same problems that Florida does, to please support us in this amendment, but, second, to remind States who are siting here today, you may not have the problem today, but you could have it tomorrow, and you may be coming and asking us for the same help.

Mr. Chairman, I support this amendment to provide $600 million specifically to reimburse States for costs of incarcerating criminal aliens. The amendment funds this program by a 2.5 percent across-the-board reduction in the remainder of the bill. We do this for several reasons.

On April 20, the House approved the amendment authorizing reimbursing for incarcerating criminal aliens in an en bloc amendment that was adopted by a vote of 402–22. We believe that $600 million is needed to fully fund this program in fiscal year 1994.

The administration earlier this year submitted a budget amendment to fund a portion of this program, but the Appropriations Committee rejected this request. The committee did include $804.3 million for Byrne formula grant programs and added reimbursement for incarcerating criminal aliens as a new purpose. This compares to the $358 million in fiscal year 1994. I want to acknowledge the recognition of a problem by the administration and the committee. I am indeed grateful.

But, the Byrne program is not the place for this funding. We believe that reimbursement—like the immigration policy that necessitates it—is a separate Federal responsibility; in fact it is authorized separately under section 501 of the Immigration Reform and Control Act.

States will be forced to choose between reimbursement for criminal aliens and other legitimate law enforcement programs. The additional $446 million easily could be used for other purposes, such as improved rural law enforcement, more urban police, and improved suburban street safety.

The committee report states that "these funds [are] to be distributed to the States under the formula currently mandated for the Edward Byrne Formula Grant Program." In order words, States with no criminal alien population get a share of this larger pie but will not have to choose between spending the funds on incarcerated aliens or other law enforcement programs.

I also fear that, without a separate appropriations, reimbursement will be lost in the federal bureaucracy. About 6 years ago, Congress appropriated money for the immigration emergency fund created in 1986. We are still awaiting the regulations to allow States to use this money. I do not want this new program to become another one of those that are funded but never implemented.

When it came to funding reimbursement, we considered reducing those programs to which the committee gave more than the budget request, including several outside the Justice Department. But, we concluded it would be easier for each agency to absorb a minor reduction.

Some have asked why we are not exempting other Justice Department programs from this reduction. Our answer it this: Many if not most of these incarcerated aliens are in this country because of some action or inaction by the United States. It was not unreasonable to include legislation to address this problem in the crime bill, and it is not unfair to require INS or the State Department to assume a portion of the cost in this bill.

With regard to the Byrne program, the modest $20.1 million reduction could be considered the incarcerated alien portion of the $446 million increase. It also leaves $784.2 million for State law enforcement programs under Byrne. Therefore, States without incarcerated criminal aliens do not lose under our amendment. They will receive the increased Byrne funding.

Since this amendment was drafted, Mr. Chairman, I have heard from groups in my State that might received less funding for their particular programs. This arguments can be summarized in one sentence: How can you reduce this program or that Federal responsibility by 2.5 percent? I am not insensitive to their concerns. But, this is only the first step in our process. When I reviewed the committee report, I noted appropriations of about $300 million above the budget request. Savings here could offset our reduction and protect programs in Florida and elsewhere. More importantly, however, for a long time I have been convinced that the problem of criminal aliens also is a federal responsibility that has been ignored for too many years.

Without a separate line, reimbursement could become subject to pressures from other programs within and outside the Justice Department budget. The only way to ensure that states receive the reimbursement to which they are entitled is to adopt our amendment.

I want to remind my colleagues that this funding comes from money that came from our constituents. It is their money that will be returned to the States to cover other taxes that the people now are paying to incarcerate criminal aliens. They did not ask to pay higher taxes to cover increased State costs associated with these criminal aliens. But, they deserve this relief.

Finally, it may be a problem in my State this year, but it could be your problem in a few years. That is one reason why everybody should support this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. DIXON], the distinguished chairman of the Subcommittee of the District of Columbia of the Committee on Appropriations, for a colloquy.

Mr. DIXON. Mr. Chairman, I would like to point out that for the first time this program has been funded at least partially. It was authorized in 1986, and, under the Clinton administration and the leadership of the subcommittee, for the first time we have provided funds for reimbursement.

I am pleased that we are here today at least talking about a first step forward.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I simply want to associate myself with the remarks of the gentleman from California and the chairman in their colloquy.

Mr. DIXON. Mr. Chairman, reclaiming my time, if I may ask the gentleman from West Virginia [Mr. MOLLOHAN].

If I may ask the gentleman, it is my understanding that the $804 million appropriation for the expanded Byrne program is to be distributed to States under the formula currently mandated for the Edward Byrne Formula Grant Program.

Is it true that it will be up to the States' Governors to use their discretion in using these funds for the costs of incarcerating undocumented felons, or for other purposes such as law enforcement or drug prevention programs? I would appreciate the Chairman's comments.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. As the gentleman stated, the committee had a very difficult time trying to provide adequate funding for all of the requested programs within a 602(b) budget allocation that was $1.2 billion below the President's request. The super Byrne program allowed the committee to maximize the budget authority available to fund items in the crime bill while staying within our outlay allocation. And you are correct that the Governors may use their discretion in using the super Byrne funds for the incarceration of undocumented felons, or for other purposes such as law enforcement or drug prevention programs.

I would note that if a separate appropriation for incarceration of illegal aliens were to be carved out of the crime bill funding, then, in order to remain within our 602(b) outlay allocation, the committee would be forced to make significant reductions.

It is absolutely true that under the Byrne program, the governors of the states have discretion to fund incarceration of illegal aliens, the traditional Byrne grant program in the 21 jurisdictions, or the Brady bill, and any combination of all of them The gentleman is absolutely correct.

Mr. DIXON. I thank the gentleman for his remarks.

Mr. ROGERS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I wanted to talk to the Members on this side of the aisle for a moment. You like to vote for these across-the-board cuts, I know that, and you like to do it because you think you are cutting the deficit. And I have joined you on many of those.

But hear me out now. This money is not going to cut the deficit. This money is going to just seven states. All 43 of the rest of you, I am sorry, you are going to get cut. How are you going to get cut? Your Byrne grant programs that fund your local police forces are going to get cut by this amendment. Hear me out. Mark it down. That is what is does.

Number two, this amendments cuts the FBI agents in your area, in your district, in your state. It cuts them. It cuts the drug enforcement agents on the street in your district. That is what this amendment does.

This amendment would cut prison construction funds, delaying construction. It would delay activation of new prisons next year. It would cut the attorneys representing indigent defendants in your courts. We would not have the money to pay for the defense of indigent defendants after August of 1995 if this amendment passes.

You would not have the money to pay the jurors in your civil trials in your courthouses in August 1995. That is what this amendment does.

The money goes to just seven states. And, yes, they need some money for these costs of jailing incarcerated aliens. There are other ways to do that. Do not penalize the 43 states that would be hurt under this amendment.

So I urge Members, there is another way to this, and you will hear it before the night is over. But do not penalize the FBI, the Drug Enforcement Agency, the prisons, the prosecutors, the jurors, the criminal indigent defendants' defense. That is what this amendment will do. Do not think you are cutting funds to cut the deficit. No, this money goes to just seven states, and the rest of you are out of the picture.

Mr. CONDIT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California, Ms. HARMAN.

Ms. HARMAN. Mr. Chairman, I rise in strong support of the Condit-Thurman amendment to reimburse State and local governments for the cost of incarcerating illegal aliens. This measure is sorely needed and I urge its adoption. I heard the last Speaker, the gentleman from Kentucky [Mr. ROGERS], talk about police chiefs.

Police chiefs in my district, the South Bay of Los Angeles, have asked the Federal Government to reimburse California for the heavy costs of incarcerating illegal aliens. They have called for these payments to be provided as new funding, not siphoned away from existing crime-fighting programs. I stand with the chiefs.

A recent report on immigration by the Urban Institute found "serious questions about institutional capacity, fiscal fairness, and the direction of immigration policy," due to the fact that "most revenues from immigrants and natives alike flow to the Federal treasury, whereas services are the responsibility of local (and State) governments. This disparity has intensified over the past decade, as Federal support for the few Federal programs targeted to immigrants and to the communities in which they settle has declined sharply."

I agree with the sponsors of this amendment that when the Federal Government fails to ensure that immigrants enter legally, it must bear the consequences of its failure. With a criminal alien population fast approaching 18,000 inmates, at an annual cost of $375 million, California can no longer foot the bill for Federal failure to curb illegal immigration. Nor can other heavily impacted States.

During consideration of the crime bill, I supported the Berman-Condit-Beilenson amendment to provide mandatory reimbursement to the States for costs incurred for the incarceration of illegal aliens. This amendment delivers on that requirement. I urge my colleagues to support it.

□ 2200

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I rise in reluctant opposition to this amendment. I am in opposition because I do believe this amendment, if adopted, would set aside the fine work of the subcommittee in improving funding for law enforcement. Earlier in this debate, I had opposition to one particular provision in the subcommittee bill. I felt that the antitrust division was raised too high in comparison with the U.S. attorneys who prosecute violent crimes of serious drug offenses. Nevertheless, I want to acknowledge that the subcommittee did improve the funding not only for the Byrne Grant Program but also for the FBI and for the Drug Enforcement Administration. That is why this amendment should be rejected.

However, I want to say to the gentleman from California [Mr. CONDIT], his point is well made, if we do not, as the Federal Government, keep our responsibility to assist the states who have the expense of incarcerating those individuals for crimes who should not be in the country in the first place, if we do not do it through this amendment, we will have to find some other way to do it in the budgetary process.

Mr. CONDIT. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California and the gentlewoman from Florida.

When we talk about the front lines, I used to be there. I used to be the sheriff of Nueces County in Corpus Christi. For many years we have seen the local taxpayers and the local government trying to fight crime that affects the Nation at the local level. When we talk about 43 other states, and I can understand that, but the other 43 states do

not have the problem that we have in the border states.

My state of Texas jails over 3,000 criminal aliens at a cost to State and local taxpayers of over $56 million a year.

Some Members might think that we are talking about people from Mexico. No. We have something else known as OTM's, Other Than Mexican, coming across the border. In my district alone, illegal aliens represent 80 countries coming through my district. I think it is time that we do something to alleviate and help local government help the states.

I urge my colleagues to support the Condit amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. SCHUMER], chairman of the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman and want to compliment him on the job he has done here.

I think that we have to provide money to deal with the incarceration of illegal aliens and, in fact, have worked very hard on the crime bill to see it there. But I could not think of a more wrong-headed way to go about doing it.

If we are going to gut the FBI 818 personnel, if we are going to gut the DEA 160 new agents, if we are going to take away from the INS money for Border Patrol and money, even more importantly, to deal with the asylees who are coming into this country and unjustly claiming asylum, we are robbing Peter to pay Paul.

This is no way to find money for a worthy cause. I would certainly support an amendment that would take some of the pork and some of the less needed things to deal with these issues. But these cuts across the board kill us.

When the FBI was cut, we heard an outcry from law enforcement across the country. The committee voted to restore it. We cannot, we cannot rob Peter to pay Paul in this wrong-headed amendment.

I urge its defeat. It would greatly hurt crime fighting in America. I urge its defeat.

Mr. CONDIT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Chairman, first I would like to say that the chairman of the subcommittee and the committee members have done solomon-like work in this particular appropriation. Sometimes we do feel like we are robbing Peter to pay Paul. I wish that we could go into other appropriations for this money because there certainly is opportunity. But unfortunately, the budget process here does not allow for that. We certainly need a budget reform process that would allow for it. But as the gentlewoman from Florida [Mrs. THURMAN] pointed out, several weeks ago voted overwhelmingly to require the Federal Government to reimburse the States for the cost of incarcerating undocumented felons. This is a long overdue commitment.

California does not set immigration policy, and my community of San Diego does not run the Border Patrol. Yet my State and my county pick up the tab when Federal immigration strategy fails.

For those who say that this affects only seven States, let me point out that those seven States contain probably a third of the population of this country.

Reimbursement is fair. It is the right thing to do. The choice really is simple. Either we do what is necessary to provide reimbursement, or we once again renege on our obligation.

This amendment is a reasonable attempt to reimburse the States that are suffering from undocumented felony shock. It is time to help them, and I urge my colleagues to support the Condit-Thurman amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I am from California. I am from the state most heavily impacted by the cost of incarcerating illegal aliens. I am from the Los Angeles area, which has had massive impacts from this issue.

The only thing worse than doing nothing about this issue, and the gentleman from West Virginia has not done nothing. He has provided the first real money for this effort of anybody in all the years that I and the Governor of California served in this body have ever done. But the only thing worse than that is to strip half the increases in the Border Patrol, thereby creating the conditions in which there will be more criminal aliens.

I will be darned if I am going back to Los Angeles to say, I cut back on the cops in the street in the most underpoliced, undermanned city in the United States of America in order to help a governor solve his budget crisis problems. I would love to do it. We did it in an amendment to try and create an entitlement program for automatic reimbursements.

I would suggest that when the crime bill, in fiscal year 1996, starts to fund prisons, the first dollar of that money go to the States which have been impacted by illegal aliens. But I am not going to vote to take it from the Border Patrol. I am not going to vote to take it from cops in the street. I am not going to vote to take it from cuts throughout the whole law enforcement community. That makes no sense. That is not what we are trying to do here.

I urge a no vote on the amendment.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Chairman, I rise in strong support of the Condit-Thurman amendment.

This legislation provides for a 2.5 percent across the board cut in spending in the Commerce, Justice, State and Judiciary appropriations bill to provide much needed funds to reimburse states for the costs of incarcerating criminal aliens.

The State of California incarcerates a disproportionate number of criminal aliens. In fact, California incarcerates 55 percent of all criminal aliens in the United States. At an annual cost of $18,000 per year, per inmate, California and the other disproportionately impacted States can not afford to continue to provide for this unreimbursed expense.

This amendment does not propose to spend additional taxpayer money, rather it is funded by cutting other programs and projects. It is a responsible measure that is owed to the States which must enforce Federal immigration and judiciary policy but which have not received adequate Federal reimbursement for the cost of implementing those policies.

I urge my colleagues to support this much needed legislation.

Mr. CONDIT. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in support of the amendment on several different points: the point that has already been made, that the Federal Government is not doing its job to protect the borders of these United States. It is one of the highest priorities of the Federal Government to protect the borders of the United States. We are not doing it. The Federal Government acknowledged its responsibility to reimburse the States for all these costs by passing section 501 of the Immigration Reform and Control Act of 1986. Unfortunately, funding does not seem to find its way to take care of these very vital problems in these States.

It is more than seven States. These are States in which over 2 percent of the prison population are criminal aliens. They include anything from Alaska to Washington. There are 18 States, from our figures, that would participate in these funds.

Even though we have to do it in a draconian way of making cuts across the board, the point here is that the Federal Government is doing a lot of other things that they should not be doing and that should be left to the States. But they are not doing the one thing that they should be doing, and that is protecting our borders and protecting our States against illegal aliens in the commission of crimes in these States.

I urge support of the amendment.

□ 2210

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 1

minute remaining, the gentleman from California [Mr. CONDIT] has 30 seconds remaining, and the gentleman from West Virginia [Mr. MOLLOHAN] has 1½ minutes remaining.

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

Mr. Chairman, I urge a no vote on this amendment, which would cut 43 States and give the money to just 7. It would also cut the law enforcement Federal agencies of every one of the 50 States. I do not think any one of us wants that, in this year when the war on crime is uppermost in the minds of the people in our towns and counties and cities.

Mr. Chairman, I urge a no vote on the amendment, and I yield back the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I yield 15 seconds to the distinguished gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, very quickly, although I believe there is a great need to fund these programs that have gone unreimbursed for years, the Federal Government does have a responsibility. I do not believe the way to do this is to have the meat axe approach of cutting across the board on programs that are very worthwhile and are needed by our law enforcement agencies.

Mr. Chairman, I urge a no vote to this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 15 seconds to the distinguished gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Chairman, I would like to associate myself with the remarks of my colleagues, the gentlemen from California [Mr. BERMAN and Mr. BECERRA]. This is a good concept, but the wrong way of doing it. Certainly we cannot borrow from Peter to pay Paul.

Mr. Chairman, I urge my colleague to vote "no" on this amendment.

The CHAIRMAN. The gentleman from West Virginia [Mr. MOLLOHAN] has 1 minute remaining.

Mr. MOLLOHAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I appreciate the debate and appreciate the good arguments made with regard to this amendment.

Mr. Chairman, I would like to close the debate by pointing out to the Members that we worked extremely, extremely hard to be responsive to their requests to fully fund the Byrne Grants, and we, I think, did that in a way that maximizes our dollars for law enforcement.

I would point out, in reiterating some of what has been said, that the Members should please ponder carefully before they vote for this amendment. In voting for this amendment, Members are voting for an 818-FTE reduction to FBI agents and FBI support personnel, and Members would be voting to decrease by 160 new FBI agents. Members would be cutting 132 new DEA agents. Members would be cutting $13 million recommended for Immigration and Naturalization Service initiatives, which equates to eliminating over half of the enhancement of $54 million put in to hire 700 new Border Patrol agents. We would be cutting that in half. We do not want to do that.

There has been some discussion about funding for U.S. Attorneys. This amendment would reduce by another 200 the number of U.S. Attorneys.

We would be reducing $6 million of the proposed increase for fisheries management. There was so much testimony on that.

Mr. Chairman, this amendment does damage throughout this bill. I urge its rejection by the body.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] has expired.

The gentleman from California [Mr. CONDIT] has 30 seconds remaining.

Mr. CONDIT. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I will try to wrap it up real quick.

Mr. Chairman, let me just tell the Members, this is not a meat axe approach. This is 2.5 percent across the board. This budget has a $300-million increase in it. This is $2.5 million across the board.

When we give that $600 million to the local law enforcement people, they will show us how to fight crime. They will keep people in jail and they will hire police officers on the street. That is what we are talking about. We are talking about giving them the discretion to hire people to fight crime, to build prisons, or to keep people in jail.

Mr. Chairman, this is a modest cut. It goes a long way in helping States and local governments, and those people that do come from those States, it may be them next time. The States have no options. The Federal Government is in control of the immigration policy. I ask for an aye vote on this amendment.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise today to express my support for the fiscal year 1995 Commerce, Justice, State, and Judiciary appropriations bill. I am particularly pleased that the Committee was able to increase the Department of Justice budget by 26 percent over last year's level. Much of the increased funding will go toward crime fighting programs like Cops on the Beat which aims to put 100,000 more police officers on the street. Additionally, both the FBI and DEA will be able to hire additional agents in order to fight crime and drugs.

Criminals across this Nation continue to victimize the honest law-abiding citizens in our towns and cities, while drug dealers continue to supply drugs which are killing the youth of our Nation. We must not let this trend continue. It is time to take back our neighborhoods and our streets from the criminal.

Earlier this year Congress was finally able to address the national crime problem and adopt a comprehensive crime package. I believe that H.R. 4603 will help fund many of the critical crime fighting proposals included in the Omnibus crime bill—H.R. 4092.

While I believe that the committee did an excellent job crafting this legislation, I am very concerned about the escalating cost of the U.N. peacekeeping operations. In fiscal year 1988 United Nations peacekeeping operations cost the United States about $30 million. In fiscal year 1995 that figure has grown to $1.5 billion or 31.7 percent of the total U.N. peacekeeping expenditure. Earlier this year Congress approved the Kolbe amendment which will cap the U.S. burden at 25 percent beginning in fiscal year 1996. During consideration of this bill I supported the Rogers amendment which would have implemented this reduction in fiscal year 1995.

I believe that the United States has been picking up the United Nations's tab for far too long. Industrial nation's like Japan, Germany, and Great Britain are often paying less than a third of the United States' share. China, which has veto power in the United Nations Security Council pays only 1 percent of the peacekeeping budget. The U.N.'s free ride must come to an end now. I believe that U.S. forces are much better served by fighting under the American flag than that of the U.N. I would point to the Somalia debacle as clear example of why United States forces should not be subject to the command of the United Nations.

Finally Mr. Chairman, I am pleased that the committee is finally able to address the growing problem of illegal immigration. This bill will fund the Immigration and Naturalization Service [INS] at $301.2 million more than last year. This will allow INS to put more than 700 new agents on the border. In addition, for the first time this bill will allow for States to be reimbursed for incarcerating illegal aliens. In States like Florida, California, and Texas this is a tremendous problem. If we do not act now, it could become a serious problem for Connecticut. We must put an end to the practice of throwing precious Federal dollars to illegal immigrants. I supported the Condit-Thurman amendment which would appropriate $600 million to the States to cover the costs keeping these illegal aliens behind bars.

As with any appropriations bill this bill has strong points and weak points. However, Mr. Chairman, I believe that overall this is a good bill and I am going to urge its passage.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. CONDIT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 256, not voting 35, as follows:

[Roll No. 287]

AYES—148

Ackerman	Fowler	McKeon
Andrews (NJ)	Franks (CT)	Mica
Andrews (TX)	Franks (NJ)	Miller (CA)
Archer	Frost	Miller (FL)
Armey	Gallegly	Minge
Bacchus (FL)	Gekas	Molinari
Baker (CA)	Gilman	Montgomery
Ballenger	Gingrich	Moorhead
Barcia	Goodling	Neal (MA)
Bartlett	Goss	Nussle
Barton	Grams	Ortiz
Beilenson	Grandy	Packard
Bentley	Green	Parker
Bilirakis	Greenwood	Penny
Blute	Hall (TX)	Peterson (MN)
Bonilla	Hancock	Petri
Brooks	Harman	Pickle
Browder	Hastert	Ravenel
Bryant	Hayes	Rohrabacher
Bunning	Hefley	Ros-Lehtinen
Burton	Herger	Roukema
Buyer	Hochbrueckner	Royce
Callahan	Hoke	Santorum
Calvert	Horn	Sarpalius
Canady	Huffington	Saxton
Castle	Hunter	Schaefer
Chapman	Hutto	Schenk
Coleman	Hyde	Shaw
Combest	Inglis	Shays
Condit	Inhofe	Shuster
Cox	Inslee	Smith (TX)
Crane	Istook	Solomon
Crapo	Johnson (CT)	Stearns
Cunningham	Johnson, Sam	Stenholm
de la Garza	Johnston	Stump
DeLay	Kasich	Swett
Deutsch	Kim	Tauzin
Diaz-Balart	King	Taylor (NC)
Dooley	Kyl	Tejeda
Doolittle	Lantos	Thomas (CA)
Dornan	Laughlin	Thurman
Dreier	Lehman	Torkildsen
Dunn	Levy	Walker
Edwards (TX)	Lewis (CA)	Walsh
Engel	Lewis (FL)	Wilson
Eshoo	Lewis (KY)	Young (AK)
Everett	Linder	Young (FL)
Ewing	Machtley	Zimmer
Fawell	McHugh	
Filner	McInnis	

NOES—256

Abercrombie	Coyne	Gunderson
Allard	Cramer	Gutierrez
Andrews (ME)	Danner	Hamburg
Applegate	Darden	Hamilton
Baesler	de Lugo (VI)	Hansen
Baker (LA)	Deal	Hefner
Barca	DeFazio	Hinchey
Barlow	DeLauro	Hoagland
Barrett (NE)	Dellums	Hobson
Barrett (WI)	Derrick	Hoekstra
Bateman	Dickey	Holden
Becerra	Dicks	Houghton
Bereuter	Dingell	Hoyer
Berman	Dixon	Hughes
Bilbray	Duncan	Hutchinson
Bliley	Durbin	Jacobs
Boehlert	Edwards (CA)	Jefferson
Boehner	Ehlers	Johnson (GA)
Bonior	Emerson	Johnson (SD)
Borski	English	Johnson, E.B.
Boucher	Evans	Kanjorski
Brown (CA)	Farr	Kaptur
Brown (OH)	Fazio	Kennedy
Byrne	Fields (LA)	Kennelly
Camp	Fingerhut	Kildee
Cantwell	Flake	Kingston
Cardin	Foglietta	Kleczka
Carr	Frank (MA)	Klein
Clayton	Furse	Klink
Clement	Gallo	Klug
Clinger	Gejdenson	Knollenberg
Clyburn	Gephardt	Kolbe
Coble	Geren	Kopetski
Collins (GA)	Gibbons	Kreidler
Collins (IL)	Gilchrest	LaFalce
Collins (MI)	Gillmor	Lambert
Conyers	Glickman	Lancaster
Cooper	Gonzalez	LaRocco
Coppersmith	Goodlatte	Lazio
Costello	Gordon	Leach
Levin	Orton	Slattery
Lewis (GA)	Oxley	Slaughter
Lightfoot	Pallone	Smith (IA)
Lipinski	Pastor	Smith (MI)
Livingston	Paxon	Smith (NJ)
Lloyd	Payne (NJ)	Snowe
Long	Payne (VA)	Spence
Lowey	Pelosi	Spratt
Lucas	Peterson (FL)	Stark
Maloney	Pickett	Stokes
Mann	Pomeroy	Strickland
Manton	Porter	Studds
Manzullo	Portman	Stupak
Margolies-Mezvinsky	Poshard	Sundquist
	Price (NC)	Synar
Markey	Quillen	Talent
Martinez	Quinn	Tanner
Matsui	Rahall	Taylor (MS)
Mazzoli	Ramstad	Thomas (WY)
McCrery	Reed	Thompson
McCurdy	Regula	Thornton
McDade	Richardson	Torres
McDermott	Roberts	Traficant
McHale	Roemer	Tucker
McKinney	Rogers	Underwood (GU)
McNulty	Romero-Barcelo (PR)	Unsoeld
Meek		Upton
Menendez	Roth	Valentine
Meyers	Rowland	Velazquez
Mfume	Roybal-Allard	Vento
Michel	Sabo	Visclosky
Mineta	Sanders	Volkmer
Mink	Sangmeister	Vucanovich
Moakley	Sawyer	Waters
Mollohan	Schiff	Watt
Moran	Schroeder	Waxman
Morella	Schumer	Weldon
Murphy	Scott	Wheat
Murtha	Sensenbrenner	Williams
Myers	Serrano	Wise
Nadler	Sharp	Wolf
Neal (NC)	Shepherd	Woolsey
Norton (DC)	Sisisky	Wyden
Oberstar	Skaggs	Wynn
Obey	Skeen	Yates
Olver	Skelton	Zeliff

NOT VOTING—35

Bachus (AL)	Ford (TN)	Rangel
Bevill	Hall (OH)	Reynolds
Bishop	Hastings	Ridge
Blackwell	Hilliard	Rose
Brewster	McCandless	Rostenkowski
Brown (FL)	McCloskey	Rush
Clay	McCollum	Smith (OR)
Faleomavaega (AS)	McMillan	Swift
	Meehan	Torricelli
Fields (TX)	Owens	Towns
Fish	Pombo	Washington
Ford (MI)	Pryce (OH)	Whitten

□ 2234

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. McCloskey against.

Mrs. MALONEY, Messrs. QUILLEN, MYERS of Indiana, HUTCHINSON, VOLKMER, PAXON, and KLUG, Ms. KAPTUR, and Mr. ROWLAND changed their vote from "aye" to "no."

Mr. ROHRABACHER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title VI? If not, the Clerk will read.

The Clerk read as follows:

TITLE VII—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, and for other purposes, namely:

CHAPTER I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Small business administration

Disaster loans program account

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans for the Northridge earthquake and other disasters and associated administrative expenses, $400,000,000, which shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, to remain available until expended: *Provided*, That of this amount, not to exceed $135,000,000 is for administrative expenses of such loans: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF TRANSPORTATION

Federal highway administration

Federal-aid highways

Under the head, "Federal-Aid Highways, Emergency Relief Program (Highway Trust Fund)" in title I of Public Law 103–211, delete beginning after "$950,000,000;" through "by the President to the Congress, all".

CHAPTER II—SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF STATE

International organizations and conferences

Contributions for international peacekeeping operations

For an additional amount for "Contributions for International Peacekeeping Operations", $670,000,000 to be available for obligation and expenditure through September 30, 1994: *Provided*, That 50 percent of this amount shall be withheld from obligation and expenditure pursuant to section 401(a)(3) of Public Law 103–236 until a certification is made pursuant to section 401(b) of said Act.

AMENDMENT OFFERED BY MR. ROGERS

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

The Clerk read as follows:

Amendment offered by Mr. ROGERS: At the end of the bill, add the following new title:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS, TRANSFERRING FUNDS FROM INTERNATIONAL PEACEKEEPING PAYMENTS TO U.N. TO REIMBURSEMENT TO STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND COMMUNITY POLICING AT HOME

SEC. 801. Notwithstanding any other provision in this Act, the amount "Contributions for International Peacekeeping Activities" for fiscal year 1995 and the additional amount for "Contributions for International Peacekeeping Operations" for fiscal year 1994 in this Act are hereby reduced by $94,732,000 and $119,013,000 respectively and of those amounts, $87,500,000 are hereby transferred to reimburse States for fiscal year 1995 for costs of incarcerating illegal aliens as authorized by section 501 of the Immigration Reform and Control Act of 1986, as amended (8 U.S.C. 1365) and $119,000,000 to programs for fiscal year 1994 authorized by Chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for an aggregate reduction of $7,245,000 in the amounts otherwise provided by this Act for fiscal years 1994 and 1995.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. SOLOMON. Mr. Chairman, reserving the right to object, we would have to object at this time. We would reconsider it in a few minutes maybe, but let the gentleman make his presentation.

Mr. MOLLOHAN. Mr. Chairman, I wonder if we could hear at least the discussion on my motion from the distinguished minority ranking member?

The CHAIRMAN. The gentleman did not make a motion. He made a unanimous consent request which was objected to.

Objection is heard.

Mr. MOLLOHAN. Would the gentleman be inclined to consider the request at a future time or at a different time? Would 40 minutes be somewhat more attractive?

Mr. SOLOMON. Mr. Chairman, I would just like the gentleman to make his presentation and then let us talk about it and try to be reasonable about it.

Mr. ROGERS. Mr. Chairman, my colleagues, let me mention first the main issue here, crime, it is strangling our communities. Every year 24 million Americans are the victims of violent crime.

The rate of violent crime in the country is the worst of any developed country. Our cities are crying for help, help to put more cops on the street, help to ease the burden of the illegal aliens crowding their prisons, as we have just heard.

Our communities are demanding action. Our President is demanding action.

Mr. Chairman, as I have said previously, overall I strongly support this bill. The gentleman from West Virginia has done yeoman's work to balance some very high priorities in very, very tight fiscal times including the war on crime.

□ 2240

But despite his best efforts and that of the subcommittee, this bill still falls short in two important programs in our fight on the war on crime.

Due to our fiscal constraints, this bill does not fully fund the President's request for more cops on the street. The bill is $368 million short. Nor does this bill fully fund the President's request for relief for States struggling with the burden of jailing illegal aliens. The question is why? Why did we fall a little short in the war on crime and repaying States for jailing illegal aliens? Because other items in the bill; namely, the demands of the United Nations in sending the American people a 31.7-percent share of the peacekeeping costs, are limiting our ability to wage the war on crime. It is that simple. This bill contains $1.2 billion to pay for the costs for the bills the United Nations is sending the American taxpayer for peacekeeping. This bill includes $222 million for expected fiscal 1995 requirements. But more telling is the $958 million included to partially pay for a fiscal 1994 charge the United Nations says we owe for arrearages. That is to say, past costs. A bill they say is now $1.1 billion.

This includes a $670 million fiscal 1994 supplemental appropriations embedded in the 1995 bill. Why is the bill so high? Because the United States pays too much. Let me show you why. In the chart over on the far side you will see the relative charges for all the major nations that contribute to the United Nations for peacekeeping operations. This chart will show you how much the United States has to pay: 31.7 percent. The next highest contributor is Japan, at 12.5 percent; the next is Germany, our poor friend in Europe, that only pay 8.9 percent. Guess where China places? Less than 1 percent of the total peacekeeping costs. And they are a member of the Security Council, with full veto powers.

Our share is too much. And where has that led us? In the last few years our bill has grown to $1.5 billion in fiscal 1994; just 3 years ago, $141 million, just 6 years $29 million. We had to cut the State Department's budget request this year. Why? Because of the peacekeeping charges that we were sent. It is eating up the bill.

We must do something about it.

Our allies simply do not pay enough. What do they pay? I just showed you. Is it fair? Of course it is not. Can we afford to pay this payment? The answer is of course "no." We did not pay it last year and we cannot pay it this year.

My colleagues, peacekeeping is a runaway fiscal train that is on a direct collision course headed for our critical domestic programs.

Just 6 years ago, we paid a mere $30 million. the price tag for fiscal 1994, $1.5 billion. It is time the Congress says enough is enough. History has proven that the only time the United Nations listens to the United States is when Uncle Sam pulls on the purse strings.

It is time the Congress told the United Nations that we will no longer pay an unfair share.

The time to act is now.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. ROGERS] has expired.

(By unanimous consent, Mr. ROGERS was allowed to proceed for 3 additional minutes.)

Mr. ROGERS. Mr. Chairman, the time to act is now. This fall the United Nations will set their budget for a 3-year term and they will set us in concrete at this rate unless we act now.

Mr. Chairman, our cities cannot afford to wait. How can any of us go back to our constituents and tell them we do not have the money to fight the war on crime when we can continue to pay more than our fair share at the United Nations? My amendment would solve the problem. It would allow us to fulfill our commitment to the United Nations, but more importantly, to fulfill our commitment to the American people, to start peacekeeping in the United States as well as peacekeeping around the world.

Very simply, my amendment reduces the amount of funding provided in the bill to the level we all agree is a fair share for U.N. peacekeeping, 25 percent, freeing up over $200 million in savings that would be used to keep peace on American streets. The amendment would use these savings to provide a $119 million fiscal 1994 supplemental to hire 1,600 more police on the beat in America. The Department of Justice already has pending 2,471 applications from States to hire almost 10,000 police officers. My amendment would allow us to hire 1,600 before the end of fiscal 1994.

If we can vote for a $550 million supplemental for the United Nations, we can vote for $119 million to put peacekeepers on the streets here at home.

The other portion of the amendment—listen, California, Texas, Pennsylvania, Illinois, all you seven States—my amendment would provide $88 million to those States who are saddled with the burden of jailing illegal aliens, committing crimes in their communities. If you can send money to the United Nations, we can send money to the States burdened and struggling with the skyrocketing costs of housing aliens in their jails. My amendment allows the Congress to make a clear choice: Do you continue to pay more than your fair share to the United Nations, or do you put 1,600 cops on the streets in this country, peacekeeping in America? Do you continue to pay more than your fair share in the United Nations, or do we help, California, Texas, Arizona, New York, New Jersey, Illinois, Florida, and others who are saddled with these extra costs?

My amendment is a vote for peacekeeping at the United Nations in a fair way and peacekeeping in America in a fair way, and I urge the adoption of the amendment.

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

Madam Chairwoman, I rise in opposition to this amendment, and I want to submit to the committee that this is

an extremely important amendment, perhaps the most important one offered here tonight. The ranking minority member of our committee, for whom I have the highest esteem, has crafted an amendment that will mean a thoughtful choice to be made by Members. But I submit, that after going through the thought process, the Members will, in strong numbers, oppose it.

Madam Chairwoman, in my opening remarks introducing this bill, which was on Thursday of last week, I asked all Members to look at our committee report at page 114 through page 117, and then on more detail to other pages. The report goes into great detail because we knew that this was an important issue to the Members and one they would want to be fully informed about. We set out in detail the factual history behind peacekeeping. I referred Members to those pages last week and I refer Members to those pages right now. They might want to look at those pages as this debate proceeds.

Madam Chairwoman, peacekeeping is a crucially, vitally important function to this Nation. The cold war has ended and no longer do we have $425 billion defense bills. We have been able to reduce those dramatically. We are looking at challenges in many different countries, most of them nationalistic in nature.

□ 2250

We need to have a way, a flexibility, to be able to meet these challenges without sending troops. If we want to send troops, we need to be able to work through the United Nations, when it is appropriate for us to do so with our dollars, when we do not want to enter into a particular area with our own forces. The alternative is really for us to withdraw, for us to become isolationists.

I say to my colleagues, if you read what we set out in the report, that becomes clear.

Now, with regard to the gentleman's purpose, Mr. Chairman, the gentleman from Kentucky [Mr. ROGERS] has for some time been very concerned about the rate that the United States pay at the United Nations. It is 30.4 percent for peacekeeping. This year through next year we have an agreement, a 3-year agreement, that is right now being renegotiated, but right now our rate is 30.4 percent. It is a contract. It is a contract pursuant to treaty. We have agreed to pay that much.

Now, Mr. Chairman, I submitted on past occasions in talking about this subject that, if the gentleman's goal, and I believe it is, is to reduce the United States' share from 30.4 to 25 percent. I do not think there is a lot of dispute on this floor about doing that. He ought to declare victory and go home—well, I do not mean go home. But he ought to declare victory because the gentleman from California [Mr. BERMAN], the very able gentleman along with his full committee chairman and his entire committee just a few short weeks ago in the authorizing bill, the bill that should deal with this issue, was successful in effecting a reduction in the authorizing bill. That was a statement to the United Nations that we were not going to pay, beginning in fiscal year 1996, any more than 25 percent of the total share on peacekeeping, a victory for the ranking minority member, I would submit.

So, Mr. Chairman, I really think that that is an authorizing issue. The authorizing committee addressed it, and how did it address it? It was very sensitive to this, my colleagues. It was very sensitive to our contractual obligation. It was very sensitive to the fact that we said to the international community, "We're going to pay 30.4 percent through 1995. But beginning in 1996 you're on notice, we are going to pay only 25 percent. Now get out there, Madam Ambassador, and negotiate it because the legislative branch is playing its role and it's giving you notice, not retrospectively. We're not going to abrogate our contract. We're giving you notice that beginning in 1996 it's 25 percent."

Now that is what the gentleman is trying to get at. We have in this bill money for peacekeeping arrearages, $670 million in 1994 supplemental funds. We have agreed to pay 30.4 percent. The gentleman's amendment abrogates that agreement.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] has expired.

(By unanimous consent, Mr. MOLLOHAN was allowed to proceed for 2 additional minutes.)

Mr. MOLLOHAN. Additionally, Mr. Chairman, we have in the bill for fiscal year 1995, $288 million for arrearages. The gentleman's amendment would reduce that, abrogating our contractual commitment, and then we have $222 million for fiscal year 1995 plus $23 million for pre-fiscal year 1994 arrearages. So, Mr. Chairman, every dollar in this bill, the funding for arrearages and for peacekeeping in 1995, assumes a funding level of 30.4 percent, which is our contractual obligation. Next year, fiscal year 1996, it will be different. It will be 25 percent, what the gentleman wants.

The problem with the gentleman's amendment is that it violates our contract. He applies that 25 percent rate that we are going to do in 1996, to 1995, and even back further, 1994. That is wrong. That is simply wrong. It is not keeping our agreement. We are a piker in the eyes of the international community if we do this, and that is the nut of this issue. While he is very attractively, and it is attractive in many ways, associating this with what I submit will not be compelling to this body because they will recognize their obligations, he is associated with some attractive crime fighting, but as he has pointed out earlier in this bill, we have to the extent possible been extremely generous with crime fighting. I would submit to the body, let's be content with that success, let's meet our contractual obligations to the United Nations, and let's rely on the authorizers from 1996 on to reduce that U.S. rate to 25 percent, where it ought to be.

I urge defeat of the amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. CUNNINGHAM. Yes, Mr. Chairman, I object. However, Mr. Chairman, I would entertain such a request at a later time.

The CHAIRMAN. Objection is heard.

Mr. KOLBE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, would the gentleman yield?

Mr. KOLBE. I yield to the distinguished ranking member, the gentleman from Kentucky [Mr. ROGERS], to complete his thoughts on this before I start mine.

Mr. ROGERS. Mr. Chairman, let me clarify, and I thank the gentleman from Arizona [Mr. KOLBE] for yielding, a couple of points which my distinguished chairman has made. I say to the gentleman, "First, if you say that we would be in violation of some treaty agreement if we only give the U.N. 25 percent on peacekeeping, I submit to you that you are in violation today. The U.N. has been billing us for 31.7 percent for peacekeeping. The administration has only been paying them 30.4."

So, Mr. Chairman, the administration, I gather, is already in violation of whatever treaty there is. Of course there is no treaty. This is not written anywhere. This is a custom that has grown up at the U.N. over the years.

Second, on the State Department Authorization Act for fiscal year 1994–1995, the gentleman is correct. In 1994 the authorization act that we passed cut the rate back to 25 percent in 1996. But the bill only applies to fiscal 1994–1995; we have got pass another authorization bill before 1996 in ensure that cut is effective.

Third, the U.N. adopts their 3-year budget this fall. Whatever the rate is this fall, we are locked into for 3 years; I do not care what the gentleman says. So this gentleman says to act now or never.

And finally, and then I will yield back, the debate here should be finding money for fighting crime and helping these States jail illegal aliens. That is what this amendment does. It makes a

fair rate for our contribution to the U.N., which is what we pay to their general budget, 25 percent, and we did it in 1973, just like we are doing this. In an appropriation bill we said the general contributions to the United Nations shall no longer be more than 25 percent, and we did it, and they agreed to it, and that was that. Listen tonight on peacekeeping.

Mr. KOLBE. Mr. Chairman, I thank the gentleman from Kentucky [Mr. ROGERS] for his contribution.

Mr. Chairman, I do rise in support of the amendment offered by the gentleman from Kentucky [Mr. ROGERS]. I do so with some reluctance, reluctance because I acknowledged in the general debate the outstanding work that the chairman of the subcommittee has done to help other law enforcement programs, and he has been very, very attentive to the priorities of law enforcement in the areas of added funding for the FBI, for the DEA, for the OCDE, for more Border Patrol agents and, for the first time, funds for the incarceration of illegal aliens in States around the United States. So, I commend the gentleman, and I think he has made a tremendous effort.

But I think that the amendment offered by the gentleman from Kentucky [Mr. ROGERS] does improve on the bill. It cuts, as we have already heard, funding for U.N. peacekeeping forces by $200 million, and we have already heard that we pay almost a third of the total cost of U.N. peacekeeping around the world while this amendment would limit our contribution to 25 percent, and, as has been pointed out, that is what we have agreed to go to anyhow. It it not a contractual amount that we are talking about because we are not paying exactly the amount that we have been billed anyhow, and we have had past times when this Congress has not lived up to its commitments, and I have been concerned about that in paying our U.N. dues. But this is not a contractual, this is not a treaty, obligation.

The United States has an obligation to say to the United Nations, "We are going to pay our fair share, but we're going to pay our fair share." Twenty-five percent is more than double what Japan pays. It is three times, it is more than three times, what Germany pays, what Great Britain pays, and many, many times what China pays today.

The most important thing, however, is how we would pay these funds. We would take this $119 million savings, apply it to hiring 1,600 more police officers, and those are police officers, cops on the beat, I should add, and we take $88 million of it to reimburse States for the cost of incarcerating illegal aliens.

□ 2300

That is important to States like my own in Arizona, where we have a tremendous problem, a tremendous responsibility. Let us not forget, the illegal alien that is in any prison or jail in the United States is there because of a failure of the United States to enforce its immigration laws. So we have a responsibility as a Federal Government to pay some of those costs.

That is exactly what this legislation does. It is about establishing priorities. It is about say saying yes, we have a responsibility of leadership in the world, to keep the world safe for peacekeeping in the world, but we certainly have a responsibility for peacekeeping the United States, for peacekeeping on our streets, and that is what we are saying the first priority of this government ought to be, is peacekeeping on the streets of America.

That is what this amendment is all about, and that is why I urge your strong support for this amendment. It is a reasonable amendment. Vote aye for it.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes.

Mr. CUNNINGHAM. Mr. Chairman, reserving the right to object, I would like to see how many Members are on that side of the aisle.

Mr. MOLLOHAN. Mr. Chairman, if the gentleman will yield, I would anticipate the time be divided 15 minutes to each side.

Mr. CUNNINGHAM. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia [Mr. MOLLOHAN].

There was no objection.

The CHAIRMAN. The gentleman's request is for 30 minutes, equally divided, starting from now. The gentleman from West Virginia [Mr. MOLLOHAN] and the gentleman from Kentucky [Mr. ROGERS], will control the time?

Mr. MOLLOHAN. Yes, Mr. Chairman.

The CHAIRMAN. Without objection, the request is agreed to.

There was no objection.

Mr. MOLLOHAN. Mr. Chairman, I yield five minutes to the distinguished chairman of the full committee, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I want to say that the amendment offered by the ranking member of the committee is clever, but it is basically irresponsible. The facts are these: From 1945 to 1987, the United Nations conducted only 13 peacekeeping operations.

From 1989 through 1992, under President Bush, they added 12 new ones. that means 84 percent of the money being requested is because of obligations which were first incurred under President Clinton's predecessors (this piece of the pie, Mozambique, Somalia, Cambodia, Yugoslavia, Iraq, El Salvador, and Angola).

Previous administrations to the Bush administration began the commitments for another 5 percent of the requests before us tonight, in Lebanon and Angola. The Clinton administration began the obligations for only 12 percent of the money before us tonight.

So what you have here today is a committee which is trying and an administration which is trying, largely, to meet obligations which were first begun under predecessors, and then to deal with a few problems of their own.

Now, the gentleman from Kentucky [Mr. ROGERS] says that he does not want us to pay more than 25 percent of costs until the UN has an inspector general and he wants us to lock in to 25 percent permanently. He has won that argument. The authorization bill withheld 10 percent of 1994 funds, 20 percent of 1995 funds, and 50 percent of the supplemental funds in this bill tonight, until the UN appoints an inspector general, and it prohibits paying more than 25 percent, period, beginnig with fiscal 1996. That is in permanent law. It is in permanent law. That is already on the books.

It is one thing for us to say, as the authorization correctly says, that in the future we will pay no more than 25 percent. But great nations do not welch on commitments, and we made a commitment that we would pay 31 percent up until this year is over. And that is what this bill tries to do.

Now, I want to make one additional point. It is not in the United States financial interest for us to renege on peacekeeping operations. Because when we do, we become the peacekeeper of last resort, and we get stuck with the bill.

This chart demonstrates that when we wind up with these regional problems exploding into military action, we pay the most of any country, $1,100 per capita, 40 percent more than any other nation. Under peacekeeping assessments, however, we fall back into the pack, with France, the United Kingdom, Germany, and Canada paying more as a percentage of their GDP than we do.

I would also make the point that while, yes, we are near the top, except for France, in the per capita assessment for peacekeeping operations (we are near the top, second from the top), we have a different kind of obligation very often than do our allies. Because while we provide more dollars, they provide more troops.

If you take a look at the peacekeepers under the United Nations, command today, the United States has 867, in comparison to 7,000 for France. There are different kinds of burden sharing. I think when you minimize the exposure of your own troops, it is a good deal for us.

I also want to point out that if you take a look at how these commitments began, in Salvador we paid $3.5 billion in aid during a war. We are now paying $7 million in peacekeeping. That is a much better deal. In Cambodia we paid

$915 million to Cambodia's neighbor, Thailand when it was a shooting war. Now we are paying $35 million. That is a much better deal.

In Lebanon, we are paying $77 million a year. But before we incurred those peacekeeping operations, we had 260 Americans who were killed and another 159 who were wounded. I think the $77 million is a whole lot better deal than losing those lives.

So I would suggest to you that while this is an enticing amendment, I would suggest to you that we have no choice but to meet our obligation. Great nations do that. If we were Bangladesh or some other minor country, we might be able to escape our historic responsibility. We cannot do that here tonight. Live up to our obligations. Support what the committee has asked you to do.

Mr. ROGERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, there is no politics involved here. I did not get into politics. I started working on this under President Bush. You will notice on the bottom of the lefthand chart, the number of missions began to grow several years ago. This is not a political matter.

As a matter of fact, if you wanted to talk about facts, 49 percent of this total obligation that we are talking about here are for new or expanded missions approved on Clinton's watch. Forty-six percent are on Bush's watch. We are not talking politics. We are talking about our budget getting eaten up.

No. 2, let us talk about where this money is going. We need this money in the States to help the States pay for the incarceration of illegal aliens. We need cops on the beat. This money will put peacekeeping in America, as well as fair peacekeeping in the U.N.

Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for the time.

Mr. Chairman, I will say to the gentleman, I started back under Ronald Reagan as a delegate to the United Nations. But, Mr. Chairman, let me tell you something: For those of you who had some reservations about the last amendment, the Condit-Thurman amendment, which was a good amendment, but you had concerns because that was going to cut across the board and do similar to what our good friend the gentleman from Kentucky [Mr. ROGERS] wants to do, and yes, there were some good programs in this bill. It provides some moneys for district attorneys. It provides some money for law enforcement. This amendment does not cut any of those programs. It only cuts one program, and that program is called peacekeeping for the United Nations.

On the issue of United Nations peacekeeping, this is the right amendment for the right time. At a time when the administration is attempting to negotiate reductions in the assessment contribution the United States must make in support of U.N. peacekeeping, it is time for Congress, which has a lot more experience in the matter, to settle it once and for all. The fact of the matter is, Mr. Chairman, that negotiations with the United Nations do not work. They do not work.

□ 2310

I know it. Dan Mica, a Congressman from your side of the aisle and myself were delegates to the United Nations in 1985, and we tried to negotiate, along with the Reagan administration, and we could not do it. So we came back here and we passed the Kassebaum-Solomon amendments. And we withheld funding for 5 consecutive years.

It was not a question of any contractual obligation. It was what was right for the American taxpayers. We withheld those funds for 5 consecutive years. And do my colleagues know what happened? They woke up at the UN. They no longer paid those $175,000 salaries to people who were used to making $15,000 a year. They cut back on all of the payrolls, and they reformed the place, not to our total satisfaction, but they listened because we hit them upside the head with a two-by-four.

I pointed out earlier, Members are looking at those charts down there, that the United States pays 32 percent of the entire UN peacekeeping budget. Other industrialized nations like Japan and Germany pay peanuts by comparison. And China, look at it over there on the end, who has a veto power, one of the five countries in the UN Security Council, pays one percent. And they run a $24 billion trade surplus with this country. They cannot afford more than one percent.

We cut it down to 25 percent, my colleagues, we do it in this bill because this is where it counts. This is the dollars. Not in the authorizing bill. And we will send that message, and we will help President Clinton drive his negotiations home. We will win it for the American taxpayer.

Mr. MOLLOHAN. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. SMITH], chairman, of the Subcommittee on Labor-Health and Human Service-Education, who has served as chairman of this subcommittee for so many years.

Mr. SMITH of Iowa. Mr. Chairman, most of this debate is 2 or 3 years late. Most of the objectives that proponents of this amendment are talking about have already been done.

Let me point out that there are two assessments to the U.N. One the regular assessment, the other is peacekeeping.

Starting in the last year or two of the Reagan administration, they proposed to cut back until we were a year behind on the regular assessments. The subcommittee agreed to go along with that. We paid 25 percent less than we owed for each year for 4 years. And we did secure some reforms that we wanted in the U.N.

But about the same time or about 4 years ago, the administration started just willy-nilly approving every peacekeeping operation that came before them. No criteria at all, just approving every peacekeeping proposal proposed at the U.N.

Whenever a problem came up before the U.N. they said, well, we will take care of this. We will have a peacekeeping operation.

The bills started piling up. So it was 3 years ago that this subcommittee said, look, we have to do something about increasing bills for peacekeeping. Our subcommittee started approving and we started paying less than our assessment.

In this bill right here, and in the defense bill together, there is only enough to pay 20 percent, not 25 percent, not 30 percent, only enough to pay 20 percent of this year's peacekeeping assessment, 20 percent. So there is already pressure there that we need.

There is also $670 million in the bill to pay some of those arrearages that were built up over this number of years, $670 million. Even after paying that $670 million, we will still be at least $300 million behind. That is enough to keep the pressure on the U.N. for a leaner operation. The $300 million in arrearages is plenty to keep the pressure on, and we want to keep the pressure on.

When the new administration came in, and the Ambassador came to my office "Ambassador Albright," I said to her, "do something about peacekeeping." She agreed, and she has been doing it. I have been to the U.N. I have talked to all of them up there. They have been doing all they can for a year to get peacekeeping under control, to negotiate a new rate and not approve every new one. It is already being done. The Secretary General of the U.N. came to my office and I made clear to him that unlimited funds will not be forthcoming.

In April of this year, the President went up to the U.N. and laid down criteria. We are not going to agree to any more peacekeeping operations unless they meet the criteria and we do have a veto. These things have been done. They are 2 years too late with most of this talk.

What we are trying to do in this supplemental is to pick up some of the arrearages that we owe. We are not going to get out of them. They are a debt. There will still be $300 million owed on arrearages at least, and in this bill we pay only 20 percent, not 30 percent or 31 percent or even 25 percent for 1995.

We do not want to get completely out of the U.N.'s peacekeeping. I will tell

my colleagues why. Just, for example, in a former Soviet province, Georgia, right now, they are having serious problems. If they do need to approve a peacekeeping operation, and if it is a legitimate thing to do, and we agree to it, that is better than not having a U.N. peacekeeping group there. Because if we do not, the Russians will put their soldiers in there by themselves. Do we want to start reestablishing the Soviet Union or a Russian Union? Do we want Russia to be in there with their soldiers by themselves in one of those former Soviet countries? I do not think so. We do not want to get clear out of the U.N. peacekeeping. This is in our interest. This is in our interest, not somebody else's interest, that we use this supplemental within the caps to pay the $670 million and that we pay the 20 percent of our assessment for 1995 that is in this bill. That is the responsible thing to do here tonight.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MCDADE], the very distinguished and hard-working ranking Republican on the full committee who is very knowledgeable on this subject because he has worked on it a number of years.

Mr. MCDADE. Mr. Chairman, I just want to make a couple of points to my colleagues as we come to the close of the debate. I think it has been a good debate for all of us as we make a decision on this amendment.

What is in front of the House tonight? In front of us on this amendment is the question of whether a billion two hundred million dollars will shuffle up to the U.N. or whether we will cut it by $200 million. That is what is here tonight.

I have just heard the former chairman of the subcommittee, my dear friend from Iowa, who knows this matter inside out, talk about what is waiting in fiscal year 1995. Members heard him mention the figure $300 million.

I will tell you what, friends—you vote this tonight and the next vote you will get is a billion dollars more in supplementals at the rate of 30.4 percent. And we as a body have said, we will pay no more than 25 percent beginning in fiscal year 1996. Mr. friends, your President and our President has signed it into law. That is the policy of this Nation.

So when Members vote tonight, and they have the question of whether or not the priority is going to be continued along at 30.4 percent or restricted to 25 percent, remember what you are doing. You have already voted to cut it to 25 percent. Now we are saying, apply that to the $1.2 billion in the bill, $1.2 billion, my friends, and potentially $1 billion coming down the pike at us in terms of a supplemental in fiscal year 1995.

The correct vote tonight, in my view the best vote for our constituency, is to reallocate that little bit, $200 million, and to assert the principle that we will not pay more than 25 percent. That is what this is all about. We have already done that for fiscal year 1996. Let us do it for fiscal year 1995.

I urge the adoption of the amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BERMAN], chairman of the authorizing subcommittee.

Mr. BERMAN. Mr. Chairman, I only want to make two points. I have great regard for the Members who have spoken on behalf of this amendment, and I do not want to go behind their statements to look at motivations. All I know is, I never saw an amendment like this when Ronald Reagan was President or George Bush was President.

Yes, we all tried to leverage certain reforms by holding back money.

□ 2320

We never sought to dis-fund one function and fund something else, to pick up some nice votes and to have a sexy-looking kind of an alternative, in order to gut our fundamental commitments to meet our most fundamental of all national security needs.

Mr. Chairman, every single one of these peacekeeping functions that are being undertaken, that we are asked to pay the money we owe for, was voted on by the United States. Every single one of them except for Rwanda and Haiti was started by a previous administration. The 30.4 percent share that our subcommittee has put into law to change next year has existed since President Nixon's time, Mr. Chairman.

It is a very dangerous game to turn this into a partisan issue. There were times in the Reagan administration, Mr. Chairman, and in the Bush administration, where Members came to some of us in the Democratic side who had the majority and said, "Do not analyze whether or not to use force in the Gulf based on partisan reasons. Do not vote for the fast track on NAFTA based on partisan reasons."

The notion of maintaining a bipartisan consensus on foreign policy is so, so important. This is a commitment. This is agreement. We have addressed the fundamental reforms for fiscal year 1996.

When the gentleman from New York, BEN GILMAN, and the gentleman from Iowa, JIM LEACH, and the gentleman from Nebraska, DOUG BEREUTER, joined in a letter with me and others to say, "It is important to emphasize what peacekeeping is not; it is not foreign aid, nor a contribution to the regular U.N. budget, but rather, payment for services already rendered. We strongly urge you to include this vitally needed funding in your mark, and stand ready to support you in any way we can to assure its enactment," that is what the ranking members of the Committee on Foreign Affairs, the gentleman from New York, BEN GILMAN, the gentleman from Iowa, JIM LEACH, and the gentleman from Nebraska, DOUG BEREUTER, three of the most respected people in foreign affairs, said to the gentleman from Iowa, NEAL SMITH, in 1992. The same thing holds true now. Vote against this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I thank the gentleman for yielding time to me.

The first point I want to make, Mr. Chairman, is that all of us I think in this Chamber agree that we ought to cut our assessment down from the 31 percent to the 25 percent. I think the gentleman from Kentucky [Mr. ROGERS] deserves a lot of credit for that. Over a period of years he has been working toward that, and to reform the United Nations. He has made a very constructive contribution. I commend the gentleman for it.

Mr. Chairman, the question we confront tonight is when do we do that. We already decided that question once. We decided that we would do it in 1996. We have enacted that into law. What we are trying to do now with the amendment the gentleman is offering is to move the goal post.

That is not fair. The United Nations, members of the United Nations, now anticipate that we are going to cut back our contribution to 25 percent because we told them we are going to do it in 1996. Now we are going to come along and tell them we are going to do it in 1994, as well.

The second point, of course, is one that has already been made. That is, we have to understand how important to our national security interests are the U.N. peacekeeping operations.

Mr. ROGERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, first I thank the gentleman who last spoke for his kind words. However, in the fiscal 1994 Commerce, Justice and State, the Judiciary and Related Agencies conference report, we served notice last year that from henceforth we were only going to pay 25 percent of the peacekeeping costs. So we served notice a long time ago that this was coming, so there is no obligation, in my judgment, for the 1994 funds that have been mentioned here tonight.

Bear in mind, Mr. Chairman, where the money is going: Over $200 million for cops on the beat, and to help these States pay for jailing illegal aliens.

Mr. Chairman, I yield two minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank the gentleman from West Virginia [Mr. MOLLOHAN]. I

think he has done a good job, except for this one little small area, 31 percent to 25 percent, when the nearest contributor is down at 12.5 percent, and I have heard responsibility. We have a responsibility to repay the States what the Federal Government had said it owes them, but yet does not have the money to. This is a place to do that.

Mr. Chairman, I think we have a responsibility. I heard fairness to support more cops on the street for a crime bill. Motivation was mentioned. Let me tell Members what my motivation is: first, responsibility; second, fairness; and the third is that I do not want the U.S. military under control of Boutros-Boutros, by golly.

We look at what happened in Somalia, we look at what happened in Bosnia. It has not been effective. When we want to add peacekeepers, let us add them on the streets, and let us repay our States the responsibility we have.

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 7 minutes remaining, and the gentleman from West Virginia [Mr. MOLLOHAN] has 2 minutes remaining.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, there are two questions in this amendment. The first is what will our percent of peacekeeping be when the budget is passed at the United Nations this fall? Will it be 25 percent that we have approved for 1996, or will it be 31.7 percent? The answer will be decided tonight.

Mr. Chairman, if Members want the percent to be 25 percent, they must approve this amendment. We continue to punish States with high numbers of illegal aliens. Several years ago we granted citizenship to 5 million illegal aliens. We promised the States, "You are in your mother's arms. We will take care of your health and welfare benefits, we will take care of your education costs, we will take care of your police service costs, trust us." That lasted less than 1 year. We stiffed the States.

Mr. Chairman, we failed to enforce our immigration laws. We further stiffed the States when those people come here and use health and welfare benefits, education benefits, and are incarcerated, as 18,000 illegal aliens are in California, eating up $375 million. That is money that should be used for police services in California.

The gentleman from Los Angeles is absolutely right, Los Angeles needs more police service; but because we stiffed the States for the 5 million illegal aliens we grandfathered into citizenship, because we stiff them every time we do not enforce our borders, because we have 18,000 in prison, we are robbing from our local budgets in health and welfare, in education, and in police services.

We passed trade laws that liberalize our trade with Mexico and other Latin American countries. Do we ask them to sign an agreement, when their citizens come here illegally and commit felonies, that we can return them? No. We cannot return them.

Vote for this budget amendment. Let us stop punishing States with high numbers of illegal aliens by robbing their police, prison, and health and welfare budgets. I ask for an aye vote.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

Let me tell Members why I think the Rogers amendment is very reasonable. In reality, Mr. Chairman, the United States of America pays well over 50 percent of world peacekeeping costs. The airlift in Bosnia has now gone on for a longer period of time than the Berlin airlift, all paid for by the United States. We have flown more missions over Iraq since the war than during the war.

When we have an operation in which the United States not only gives its 30.4 percent to U.N. operations, but also unilaterally funds American airlift operations that help that same objective, we oftentimes go over 66 percent, or two-thirds of the total cost of the U.N. peacekeeping operation.

Mr. Chairman, this amendment is extremely reasonable. We should vote for it.

The CHAIRMAN. The gentleman from Kentucky [Mr. ROGERS] has 4 minutes remaining, and the gentleman from West Virginia [Mr. MOLLOHAN] has 2 minutes remaining.

Mr. ROGERS. Mr. Chairman, I have one speaker remaining.

Mr. MOLLOHAN. Mr. Chairman, we have two speakers remaining, and we would like to reserve our right to close.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington [Mr. DICKS], a distinguished member of the Subcommittee on Defense of the Committee on Appropriations.

□ 2330

Mr. DICKS. Mr. Chairman, on this particular issue, we have the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from California [Mr. DELLUMS], and many of the people who serve on our defense related committees strongly supporting the committee's action.

After winning the cold war, we have now cut our defense budget dramatically. It is crucial that we support and keep our commitments under U.N. peacekeeping. We have got the room in this year's budget to put in about $670 million. If we do not do that, we are going to wind up the year with over a $1-billion obligation.

Let us face it. We have made a contractual commitment to pay this money. We have had these operations out there that are very important to U.S. security interests.

Mr. Chairman, I urge the committee to reject this amendment. No matter how cleverly it is drafted, it breaches our commitment to the United Nations, and I think it is bad for U.S. defense policy. That is why we have all of the major figures in defense in this House supporting the committee action.

Mr. ROGERS. Mr. Chairman, I yield the balance of our time to the gentleman from Illinois [Mr. HYDE].

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] is recognized for 4 minutes.

Mr. HYDE. Mr. Chairman, to my friend, the gentleman from California, Mr. HOWARD BERMAN, who is one of the really good legislators here among many good legislators, I would not say that his allegation that this is partisan politics is paranoia. That is too strong a word. I would just say hypersensitivity, because if it will please the gentleman, we will retroactively reproach the Reagan administration and the Bush administration for failing to scale down this figure to a fair and just figure, 25 percent, instead of the 30.4 percent that we pay. I hope that puts that to rest.

Mr. Chairman, the United Nations has its uses. Of course it does. I am not one of those members who says, "Get us out of the U.N." the United Nations has its uses. But we have to keep that in perspective. We cannot subordinate our foreign policy to the U.N. bureaucracy. It is just foolish.

Mr. Chairman, I have been here 20 years and I have heard every year that we have given our word, our commitment, whether it is to the IMF or to the World Bank or to some negotiators on the law of the sea, somebody is always committing us to something, and then we have to retroactively bail them out and pay the check.

We know if we read the Constitution, it says Congress appropriates the money and no money can be drawn on the Treasury unless first appropriated by Congress. Where does it say that State Department or the Treasury can obligate Congress? It cannot be done.

We are not welshing on any word at all. However, if welshing is the subject for this evening's discussion, we welsh by 1.3 percent whenever we pay less than the United Nations bills us at 31.7 percent, and we pay 30.4 percent.

Mr. Chairman, 25 percent is fair. It is fair to the American taxpayer. It may not be fair to the U.N. bureaucracy, but it is very fair to the people scrubbing floors tonight and having their taxes go to the United Nations for peacekeeping. Twenty-five percent of the peacekeeping charges is twice what Japan pays, and the last time I looked, we have a $59.4 billion trade deficit with Japan.

Mr. Chairman, if we bring this into some sense of proportion and reality, we will pay beginning now, not in 2 years, now, we should be fair to our constituents now. We will be paying 25 percent of peacekeeping expenses. That saves us $200 million. What are we going to do with the $200 million? We are going to put $119 million of it into community police, something we have been promising our constituents since we started running for public office.

We are going to take the rest and help pay for incarcerating those illegal aliens in jail, where they belong if they have broken the law.

Mr. Chairman, what is more important? A satisfied bureaucracy at Lake Success or a satisfied constituency with decent police protection and people who ought to be locked up, locked up?

Mr. Chairman, 25 percent is fair, it is defensible, it is just, and it ought to be what we agree to pay.

Please, ask the State Department, ask the Treasury Department not to commit us to things without taking us into their confidence.

Mr. MOLLOHAN. Mr. Chairman, I yield my remaining time to close debate to the distinguished gentleman from Minnesota, Mr. PENNY.

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in opposition to the amendment to reduce funding for U.N. peacekeeping programs. I often stand on this floor to propose budget cutting propositions. In this case, however, I strongly urge Members to support the request of the President for regular and supplemental appropriations for the U.N. peacekeeping efforts.

I am joined in this request by the gentleman from Pennsylvania, Mr. MURTHA, the gentleman from Washington, Mr. DICKS, the gentleman from Mississippi, Mr. MONTGOMERY, the gentleman from Texas, Mr. STENHOLM, and other conservative Democrats who are concerned about America's national security interests as well as a responsible budget.

I ask Members to consider the following facts:

First, the supplemental appropriation for peacekeeping efforts in fiscal year 1994 is totally within the budget caps established in the fiscal year 1994 budget resolution.

Second, the United States is currently contributing about 900 troops compared to about 7,500 for Pakistan and 6,000 from India. Clearly when it comes to troops, we are not shouldering an unfair burden.

Finally, 82 percent of the current amount which the United States owes the United Nations is directly related to the 12 operations approved by the Bush administration. We could have as a member of the Security Council vetoed those decisions. We did not veto them, we supported them, and we must now honor our obligations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. ROGERS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 228, not voting 33, as follows:

[Roll No. 288]

AYES—178

Allard	Goodlatte	Murphy
Archer	Goodling	Myers
Armey	Goss	Nussle
Bachus (AL)	Grams	Ortiz
Baker (CA)	Grandy	Oxley
Baker (LA)	Green	Packard
Ballenger	Greenwood	Paxon
Barrett (NE)	Gunderson	Petri
Bartlett	Hall (TX)	Porter
Barton	Hancock	Portman
Bateman	Hansen	Poshard
Bentley	Hastert	Quillen
Bereuter	Hayes	Quinn
Bilirakis	Hefley	Ramstad
Bliley	Herger	Ravenel
Blute	Hobson	Regula
Boehlert	Hoekstra	Roberts
Boehner	Hoke	Rogers
Bonilla	Horn	Rohrabacher
Bunning	Houghton	Ros-Lehtinen
Burton	Huffington	Roth
Buyer	Hunter	Royce
Callahan	Hutchinson	Santorum
Calvert	Hyde	Saxton
Camp	Inglis	Schaefer
Canady	Inhofe	Schiff
Castle	Istook	Sensenbrenner
Clinger	Johnson, Sam	Shaw
Coble	Kasich	Shays
Collins (GA)	Kim	Shuster
Combest	King	Skeen
Cooper	Kingston	Smith (MI)
Costello	Klug	Smith (NJ)
Cox	Knollenberg	Smith (TX)
Crane	Kolbe	Snowe
Crapo	Kyl	Solomon
Cunningham	Lazio	Spence
DeLay	Levy	Stearns
Diaz-Balart	Lewis (CA)	Stump
Dickey	Lewis (FL)	Sundquist
Doolittle	Lewis (KY)	Talent
Dornan	Lightfoot	Tauzin
Dreier	Linder	Taylor (NC)
Duncan	Lipinski	Thomas (CA)
Dunn	Livingston	Thomas (WY)
Ehlers	Lucas	Torkildsen
Emerson	Machtley	Traficant
Everett	Manzullo	Upton
Ewing	Mazzoli	Vucanovich
Fawell	McCrery	Walker
Fowler	McDade	Walsh
Franks (CT)	McHugh	Weldon
Franks (NJ)	McInnis	Williams
Gallegly	McKeon	Wolf
Gallo	Meyers	Young (AK)
Gekas	Mica	Young (FL)
Gilchrest	Michel	Zeliff
Gillmor	Miller (FL)	Zimmer
Gilman	Molinari	
Gingrich	Moorhead	

NOES—228

Abercrombie	Barcia	Bonior
Ackerman	Barlow	Borski
Andrews (ME)	Barrett (WI)	Boucher
Andrews (NJ)	Becerra	Brooks
Andrews (TX)	Beilenson	Browder
Applegate	Berman	Brown (CA)
Bacchus (FL)	Bevill	Brown (OH)
Baesler	Bilbray	Bryant
Barca	Bishop	Byrne
Cantwell	Johnson (GA)	Peterson (MN)
Cardin	Johnson (SD)	Pickett
Carr	Johnson, E. B.	Pickle
Chapman	Johnston	Pomeroy
Clay	Kanjorski	Price (NC)
Clayton	Kaptur	Rahall
Clement	Kennedy	Reed
Clyburn	Kennelly	Richardson
Coleman	Kildee	Roemer
Collins (IL)	Kleczka	Romero-Barcelo (PR)
Collins (MI)	Klein	Roukema
Condit	Klink	Rowland
Coppersmith	Kopetski	Roybal-Allard
Coyne	Kreidler	Sabo
Cramer	LaFalce	Sanders
Danner	Lambert	Sangmeister
Darden	Lancaster	Sarpalius
de la Garza	Lantos	Sawyer
de Lugo (VI)	LaRocco	Schenk
Deal	Laughlin	Schroeder
DeFazio	Leach	Schumer
DeLauro	Lehman	Scott
Dellums	Levin	Serrano
Deutsch	Lewis (GA)	Sharp
Dicks	Lloyd	Shepherd
Dingell	Long	Sisisky
Dixon	Lowey	Skaggs
Dooley	Maloney	Skelton
Durbin	Mann	Slattery
Edwards (CA)	Manton	Slaughter
Edwards (TX)	Margolies-Mezvinsky	Smith (IA)
Engel	Markey	Spratt
English	Martinez	Stark
Eshoo	McCurdy	Stenholm
Evans	McDermott	Stokes
Farr	McHale	Strickland
Fazio	McKinney	Studds
Fields (LA)	McNulty	Stupak
Filner	Meek	Swett
Fingerhut	Menendez	Swift
Flake	Mfume	Synar
Foglietta	Miller (CA)	Tanner
Frank (MA)	Mineta	Taylor (MS)
Frost	Minge	Tejeda
Furse	Mink	Thompson
Gejdenson	Moakley	Thornton
Gephardt	Mollohan	Thurman
Geren	Montgomery	Torres
Glickman	Moran	Tucker
Gonzalez	Morella	Underwood (GU)
Gordon	Murtha	Unsoeld
Gutierrez	Nadler	Valentine
Hall (OH)	Neal (MA)	Velazquez
Hamburg	Neal (NC)	Vento
Hamilton	Norton (DC)	Visclosky
Harman	Oberstar	Volkmer
Hefner	Obey	Waters
Hinchey	Olver	Watt
Hoagland	Orton	Waxman
Hochbrueckner	Pallone	Wheat
Holden	Parker	Wilson
Hoyer	Pastor	Wise
Hughes	Payne (NJ)	Woolsey
Hutto	Payne (VA)	Wyden
Inslee	Pelosi	Wynn
Jacobs	Penny	Yates
Jefferson	Peterson (FL)	
Johnson (CT)		

NOT VOTING—33

Blackwell	Hastings	Reynolds
Brewster	Hilliard	Ridge
Brown (FL)	Matsui	Rose
Conyers	McCandless	Rostenkowski
Derrick	McCloskey	Rush
Faleomavaega (AS)	McCollum	Smith (OR)
Fields (TX)	McMillan	Torricelli
Fish	Meehan	Towns
Ford (MI)	Owens	Washington
Ford (TN)	Pombo	Whitten
Gibbons	Pryce (OH)	
	Rangel	

□ 2355

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Chairman, I offer an amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of North Carolina: SEC. 801. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

Mr. TAYLOR of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 40 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from North Carolina [Mr. TAYLOR] will be recognized for 20 minutes, and the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Chairman, just last October, the Equal Employment Opportunity Commission [the EEOC] proposed a new set of guidelines to title VII of the Civil Rights Act relating to harassment in the workplace.

Many members have heard about these proposed regulations from your constituents.

The EEOC received tens of thousands of comments on this issue during the comment period.

The proposed guidelines cover not only religious harassment, but also harassment based on race, gender, national origin, age, or disability.

I have joined FRANK WOLF, who serves with me on the Appropriations Committee, and a fellow North Carolinian MARTIN LANCASTER to express our concerns with the proposed EEOC guidelines.

My amendment focuses solely on the proposed religious harassment guidelines and would not seek to delay the implementation of the guidelines for those other purposes.

As currently written, the scope of the prohibited religious harassment guidelines are so broad and rest on such subjective factors, that constitutionally protected religious expression could be easily declared illicit harassment and punished.

A number of groups opposed the proposed religious harassment guidelines. These include: the family research council; the American Jewish Congress; the American Civil Liberties Union; the Christian Coalition, and the Traditional Values Coalition.

Ironically, if the proposed guidelines are implemented, they would not impact Congress.

We could still continue to start off each session with a prayer. We could still have "In God We Trust" positioned above the Speaker's chair.

We could still say "One Nation, Under God" when we recite the Pledge of Allegiance.

We would not have to remove Pope Gregory IX, Moses, or Mohammed from the freeze around the gallery.

But the American people's rights would be limited. Crosses could no longer be worn and Bibles left in desk drawers and lockers would not be allowed.

Last week, I joined with several NASCAR drivers at a press conference.

These drivers, their families, and their crews gather on Sundays for a service before their race. Should the EEOC religious harassment guidelines be implemented, they would no longer be able to hold Sunday services at the track, which is their workplace.

These drivers are about to crawl into a hot, small metal space—about a 140 degrees—and travel between 100 and 200 miles per hour in front of one hundred thousand cheering fans—and many times that watching on their TV sets. Who are we to tell them that they can't have a religious service before their race?

□ 2400

How arrogant of Government to think it can micro-manage your life under the guise of protection.

I also wonder how the proposed religious harassment guidelines will impact the military.

For members of the Armed Forces, the base or the battlefield is the workplace. Would prayer and services be allowed?

A constituent of mine wrote a letter to me expressing his concern with the guidelines.

He is in the Marine Corps and is concerned that the Marine Corps will have to change its motto—Semper Fi—Loyalty to God to Country, and to the Corps.

I could not assure him that his concerns were unfounded.

One major company has already implemented guidelines because the company could see the potential problems if the guidelines should be administered.

In a January 7, 1994 memo, the company stated:

Technical operations personnel should not possess nor display, in any manner, or premises any material which may be construed, by anyone, to have . . . religious . . . overtones, whether positive or negative . . .

So what does my amendment do? It states that for the next fiscal year, the EEOC cannot implement, administer, or enforce the guidelines covering harassment based on religion that were published last October.

This will give the various groups an opportunity to come together and develop a compromise solution.

Religious harassment would continue to be protected under current title VII regulations, the Religious Freedom Restoration Act which became law last year, and the U.S. Constitution.

Many Members are aware that the Senate has already taken action on this issue.

The Senate has called on the commission to draft a new policy that would make explicitly clear that symbols or expressions of religious belief [are] consistent with the first amendment and the Religious Freedom Restoration Act of 1993, are not to be restricted and do not constitute proof of harassment.

Members of the House should go on the record in support of religious freedom in the workplace. My amendment gives the Members the chance to do so.

Again, my amendment deals only with the proposed religious harassment guidelines.

This is a simple amendment. It is supported by the American people—mainstream America. I urge the Members to support the American people and join me in voting for the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in strong support of this amendment and thank the gentlemen for the great work they did on this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF] who is a cosponsor along with the gentleman from North Carolina [Mr. LANCASTER] and myself.

Mr. WOLF. Mr. Chairman, I will take 30 seconds.

Mr. Chairman, I strongly support the amendment offered by the gentleman from North Carolina (Mr. TAYLOR).

All groups of all political persuasions, right and left and middle, support this and oppose the EEOC guidelines. Here is an opportunity to do something right. I ask for a unanimous vote on this amendment.

Mr. Chairman, I rise in support of this amendment. First I would like to thank our colleague BUCK MCKEON for bringing attention to the problem with the EEOC's proposed religious harassment guidelines. These concerns were originally dismissed by the EEOC but now most agree that the proposed guidelines are a severe threat to religious liberty. I appreciate my colleague's tenacity in pursuing this important issue.

The amendment we offer to the Commerce, Justice, State appropriations bill does one thing: it prevents the EEOC from imposing the proposed EEOC religious harassment guidelines of October 1, 1993. All groups on both

the right and the left have serious problems with the language regarding religious harassment in these guidelines. This amendment will not restrain the EEOC from proceeding on refining and reevaluating these proposed guidelines.

This amendment also will not restrict any current rights. As J. Brent Walker, general counsel of the Baptist Joint Committee has pointed out, "Even if religion were deleted from the guidelines, title VII itself would still prohibit religious harassment." This amendment does not delete religious harassment entirely or permanently from the guidelines, it only restrains the EEOC from imposing the October 1993 proposed guidelines.

In a letter to the EEOC from People for the American Way, they point out that the October 1993 proposed guidelines "could be misinterpreted by some employers to impose unduly harsh and possibly illegal restrictions on free expression by employees and others in the workplace * * * Unless carefully designed and implemented, policies aimed at eradicating workplace harassment may produce tension with these goals."

Bob Peck of the ACLU testified recently in the Senate that "the proposed guidelines issued October 1, fail to reflect the law with sufficient sensitivity to constitutional problems * * *. The ACLU opposes promulgation of the proposed guidelines as originally issued on October 1. Because it was drafted so broadly, it is susceptible of a reading that a religion-free workplace is required to avoid liability for religious harassment." The ACLU said it would "welcome the clear congressional message" that the proposed guidelines should be revised. We agree and that is why we offer the amendment today. The October 1, 1993, guidelines regarding religious harassment should not be given any opportunity to go forward.

The U.S. Catholic Conference has pointed out that religious employers could have particular problems under these proposed guidelines since they were not provided with specific attention as they have been in the past with title VII and the Religious Freedom Restoration Act. Certainly we do not want to eliminate the right of those who work in soup kitchens or homeless shelters under religious auspices to be required to expunge any visible signs of their faith from their ministries. The Southern Baptist Convention in its annual meeting last week overwhelmingly adopted a resolution which warned that the guidelines "pose a grave risk to religious freedom in the workplace."

A letter from the American Jewish Congress also raises concerns about the guidelines as proposed on October 1,

> * * * there is a danger that the [proposed October 1993] guidelines will be used by some to justify suppression of legitimate religious speech in the workplace. There is, indeed, already evidence that the fear of lawsuits alleging religious harassment has already done so, as employers put prophylactic measures into effect in order to ward off potential religious harassment suits . . . if the Guidelines require (or are understood by employers to require) suppression of all speech concerning religion to avoid charges of harassment, Title VII would be at war with itself. . . . A wooden application of the Guidelines (as some corporations apparently have already done) can lead to a needless suppression of religious speech.

I offered as Exhibit I in this "needless suppression of religious speech" a policy that was promulgated earlier this year at a major airline. It requires that "rather than wasting critical time resolving conflicts or attempting to define precisely what might be offensive to anyone," all personnel are told not to "possess nor display, in any manner on * * * premises any material which may be construed by anyone to have racial, religious, or sexual overtones, whether positive or negative."

Is this what we want to happen in the workplace today? Restricting any material that might be construed to have religious overtones—even overtones that may very well be positive? Do we want to ban the wearing of a cross? Do we want to ban having a Bible on your desk? These concerns were dismissed earlier this year in a letter circulated by the EEOC in a response to congressional concerns. It was not until EEOC received more comments than it ever has before in the public comment period that they appeared to recognize that the proposed guidelines were seriously flawed. What this amendment does is provide insurance that the EEOC will not implement these flawed guidelines.

The proposed guidelines would also require employers to determine what constitutes religious harassment from the point of view of the reasonable person given their race, color, religion, gender, national origin, age, or disability. In the majority of workplaces the employer does not independently know the religious beliefs of employees, much less the beliefs of the other individuals contemplated by the proposed rules, that is their relatives, friends, and associates. Are we going to have a reasonable Baptist standard, a reasonable Catholic standard, a reasonable Moslem standard in determining what constitutes religious harassment? Will every employer have to become a student of comparative religions?

Religious harassment charges comprised 0.3 percent of total EEOC–State and local agencies claims during 1990–1991 and 0.4 percent during 1992–1993. This amendment will not restrict any of the provisions under title VII, it will only restrict the implementation of the ill-advised guidelines proposed by the EEOC on October 1, 1993. It makes sense and I urge your support for this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Chairman, I rise today in support of the Taylor-Wolf amendment to the Commerce, Justice, State, and Judiciary appropriations bill.

Since the inception of the 1964 Civil Rights Act, employers have been prohibited under the law from discriminating against employees on the basis of religion. Under this law, the courts have consistently ruled in favor of the employee in religious discrimination cases. This has taken place without guidelines promulgated by the EEOC. Let me reiterate that point, employees have found adequate protection against religious discrimination without EEOC guidelines. In fact, this is the first time the EEOC has chosen to include religion in its guidelines, in spite of the fact that religious discrimination cases represent a mere one-half of 1 percent of its total caseload.

The Taylor-Wolf amendment applies to the proposed guidelines which many, from the ACLU to the Christian Coalition, have found to come in serious conflict with the constitutional right to the freedom of expression of religion. Under the Constitution, we are guaranteed the freedom of religion, not the freedom from religion. Yet, the EEOC's guidelines, as currently proposed could very well stymie religious expression in the workplace. If the people are protected under title VII, it is clearly unnecessary to put forth guidelines that could ultimately have the negative effect of stifling religious expression.

The EEOC's efforts to regulate religious expression, however well intended, must be stopped. The Taylor-Wolf amendment is an important move in the right direction. I urge my colleagues to support this amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. LANCASTER], and I would like to note that we fully intend to accept this amendment after Members who feel compelled to speak on it have done so.

Mr. LANCASTER. Mr. Chairman, I join with my colleagues from North Carolina and Virginia in support of this amendment which we have offered that would guarantee that funds not be used for the enforcement of these guidelines promulgated by the EEOC to protect workers from religious harassment in the workplace.

I do not in any way question the good intentions of the EEOC or question their statement that these guidelines are designed specifically to guarantee that religious harassment will not take place in the workplace. However, Mr. Chairman, leading conservative ministers and the ACLU have found one point on which they can agree, and that is that these guidelines are so broadly drawn that the intended purpose will not be furthered, but the opposite result may flow from these guidelines. They believe, as do I, that these regulations, because of their overbroadness, would perhaps remove all symbols of faith as well as restrict the right of free speech and the right of the exercise of freedom of religion there. We should all feel comfortable in having our Bibles on our desk, in wearing a gold cross or Star of David around our neck, or in engaging in religious conversation with our coworkers.

Mr. Chairman, we must not in the guise of protecting religious freedom restrict that freedom instead. People of faith, all faiths, must be able to freely exercise that faith and not feel that they are going to be jeopardized by the

possibility of complaints raised against them with the EEOC.

I urge my colleagues to vote for this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman from North Carolina [Mr. LANCASTER] for his support.

Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise today in strong support of the Taylor/Wolf amendment which will put an end to the absurd but potentially dangerous plans of the EEOC's "God Squad." The proposed guidelines on religious harassment are yet another example of the heavy hand of the Federal Government reaching into the everyday lives of people across the Nation.

While EEOC officials claim their intention is to make sure that unwelcome religious expressions are prohibited, groups as diverse as the ACLU and the Christian Coalition agree that these guidelines will silence religious expression and encourage lawsuits.

Ironically, 3 weeks ago a U.S. District Judge ruled that Playboy can be read on the job—but, the harassment guidelines being thrust upon the American public could make it illegal to invite a colleague to a prayer breakfast. This is simply unacceptable.

No one here supports religious harassment or bigotry. Such harassment is already illegal under title VII and other Federal laws. But, the EEOC's proposed guidelines go much further than what the law or common sense requires.

The EEOC's overzealous bureaucrats are out to undermine our constitutional right to freedom of religion. The EEOC's "God Squad" must be terminated, not workers who at the end of a hard week remark, "Thank God It's Friday." The Taylor/Wolf amendment will terminate the proposed guidelines on religious harassment. I strongly encourage all my colleagues to vote yes on this important amendment and stop the EEOC's "prayer patrol."

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the truly distinguished gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment. Religious discrimination is still a very potent factor in the workplace. Many human rights organizations have recommended voting against this amendment. I shall do so.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I rise today in support of the Taylor/Lancaster/Wolf amendment to prohibit funds in the bill from being used to implement the controversial Equal Employment Opportunity Commission [EEOC] regulations concerning religious harassment in the workplace.

These guidelines are controversial in the sense that many individuals and groups object to their content. They are not controversial in the sense that organizations as varied as the American Civil Liberties Union and the Christian Coalition have joined in expressing their view that they would serve to stifle constitutionally protected speech.

I support the concept of protecting against real religious harassment in the workplace, but it is my understanding that existing law already provides for this. It may even be possible to write acceptable regulations to codify religious harassment law.

Unfortunately, these regulations are far too broad and their effect would be to induce employers to create a religion-free workplace. Under the threat of large penalties for permitting harassment in the workplace, more and more businesses would take the safe route and prohibit their employees from keeping religious symbols on their desks, wearing a crucifix or Star of David or inviting a colleague to church.

That would be an unfortunate departure from our Nation's historic recognition of the role of religion in private life.

One should need look no further than the House itself to understand why we need to oppose these regulations. Many of us are members of the Congressional Prayer Breakfast. That might be endangered were these regulations imposed on the House. Each morning, we open our deliberations with a prayer, that too might be endangered.

Implementing these regulations with the religious provisions intact would do no good that I am aware of. The regulations have the potential of doing a great deal of harm. The Taylor/Lancaster/Wolf amendment is the prudent course. I ask you to join the Senate which voted unanimously in favor of delaying implementation of these regulations.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], a distinguished member of our subcommittee.

Mr. SKAGGS. Mr. Chairman, let us stipulate that nobody should face on-the-job discrimination or harassment because of his or her religious beliefs. However, I am afraid this amendment does nothing to contribute to that objective. It has only symbolic significance. As a practical matter, it will make no difference. The amendment addresses implementation only of the draft EEOC guidelines with respect to religious harassment dated October 1, 1993, and by its terms applies only to that precise version, with no changes. The EEOC is already in the process of revising those guidelines. It is changing the guidelines in response to the many comments it received, which properly urged revisions to make sure the objective was eliminating religious harassment, not interfering with free expression of religion. Thus, the October 1, 1993, draft will not be issued as final guidelines. So, this amendment will have no effect. And we know that now, tonight.

The amendment is also without practical effect because the underlying law—Title VII of the Civil Rights Act—remains in force, and it is that law which prohibits religious harassment and discrimination in the workplace. With or without guidelines, the EEOC will still be obliged to enforce the law.

Nonetheless, some proponents of this amendment are intent on pursuing it, largely I fear because passions on this issue have been so inflamed by an almost willful effort to exaggerate and distort: frightening people into thinking their government was about to prohibit the exercise of their constitutional rights of expression of religion in the workplace, raising the specter, for instance, that you could not wear a cross or display a crucifix. That was never proposed or intended, and is the classic red herring.

Yet, this matter has been pursued with such vehemence that accuracy and facts became an early casualty. For example, a Delta Airlines personnel directive has been cited as having been the result of the EEOC draft even though Delta denies it and has affirmed that it has no interest in restricting its employees' religious beliefs. Similarly, an unauthorized "memo," attributed to the ACLU, was distributed by proponents of this amendment. Later, when the ACLU found out what happened, it issued a statement that the memorandum "should be dismissed as inaccurate and unauthorized."

It is important, therefore, to reaffirm that true freedom of religion, and true government neutrality in matters of religion, demand that we continue to make sure American factories and offices are both free for appropriate individual religious expression and free from intimidation for or against any particular religious belief or creed. That is why so many religious and civil rights groups opposed the previous formulation of this amendment, which was offered and defeated in committee. It is important to our tradition of religious freedom to keep a provision in the law proscribing religious harassment in the workplace.

Still, since this amendment will have no legal effect, there is also no point in aiding in any further confusion of the issue, confusion which would likely be aggravated in the process. This amendment, and most of the attendant remonstrances, are in the purest sense a rhetorical exercise. As we vote for it, all I ask is that we recognize what it is we're doing.

□ 2410

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I am not going to take that 2 minutes, but I would like to say, after the treatment you gave my earlier amendment, I appreciate that. That is nice.

I would like to take exception to what Mr. SKAGGS said, and that is I

think it is extremely important that we express the feeling of this House of Representatives about the kind of overstepping that the EEOC is doing. I think we are doing that tonight. They need to know that we as the representatives of the people of America think they are being ridiculous, the Founding Fathers never intended for us to overstep the bounds of the religious freedom in this way, and they do not intend, we do not intend to see it happen in this country.

I would encourage us to support this amendment and support it overwhelmingly.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as we consider the Taylor-Wolf amendment, I think it is important to separate fact from the fiction surrounding the proposed EEOC guidelines.

The EEOC has proposed guidelines to clarify title VII of the Civil Rights Act of 1964. The guidelines make it clear that religious harassment, along with other forms of workplace harassment, is unacceptable. But, allegations that the proposed guidelines would prevent the wearing of a cross or a yarmulke, an expression of religious belief, or the display of a Bible or the Koran are simply untrue. However, to clarify this point and aid employers, I believe that the proposed guidelines should be revised to include specific examples and explanations of what is and is not legal under title VII.

While revising the guidelines, I believe it is important that religion not be deleted. It is troubling that those who profess to support religious liberty and expression would attempt to undermine the implementation of guidelines including religious harassment. These proposed guidelines exist to protect the religious believer. No one should be told "You killed Christ, Wally, so you'll have to hang from the cross" or physically assaulted in the workplace; and, no Catholic should ever be repeatedly referred to, among other things, as a "dumb Catholic." Unfortunately, these are real situations—the kind of situations title VII, together with the proposed guidelines, will prevent.

I urge you not to interfere with the EEOC as it develops its guidelines. I believe that the EEOC will be responsive to our concerns and it is not necessary to impose qualifications on their funding. However, I do hope that you will encourage the EEOC to clarify the proposed guidelines by signing the letter that Congressmen FORD, OWENS, FISH and I have drafted to Acting EEOC Chairman Gallegos.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say religious harassment will continue to be protected under current title VII regulations, the Religious Freedom Restoration Act, which became law last year, and the U.S. Constitution. We think these proposed regulations have gone too far. Some companies have already begun to act on them.

I would like to yield two minutes to the gentleman from Wisconsin, Mr. ROTH.

Mr. ROTH. Mr. Chairman, this is a good amendment. I congratulate the authors of this amendment for the courage of their convictions. But due to the lateness of the hour and because this amendment has been accepted and it will pass, let me put my remarks into the RECORD and say that all of us took an oath to uphold the Constitution, and the Constitution of the United States does say that this Congress shall make no law respecting an establishment of religion, and I stress the words prohibiting the free exercise thereof. So we are going to carry through on our constitutional oath this evening and vote for this amendment.

I appreciate the author's introducing this amendment and again congratulate you for having the courage of your convictions.

Mr. Chairman, last November Congress passed the Religious Freedom Restoration Act. This new law specifically prohibits the Government from substantially burdening the exercise of a person's religion. No law could be plainer.

Yet less than a year later, the Equal Employment Opportunity Commission is considering issuing regulations that would effectively stop religious expression of any form in the workplace.

We must not stand by while one of our most basic freedoms is abridged. If the EEOC has its way, people in the workplace will not be able to: wear religious symbols like the cross or Star of David; have conversations about religion; have a party celebrating holidays such as Hanukkah or Christmas; or even keep religious books like the Bible or the Koran on a desk.

As Members of Congress, we have all taken an oath to uphold the Constitution. May I remind my colleagues of the words of the Constitution regarding religion? They are that "Congress shall make no law respecting an establishment of religion, or," and I stress these words, "prohibiting the free exercise thereof."

Without the right to express individual religious beliefs, whether in conversation, adornment, or action, there is no "free exercise" of religion. This is true in our homes, our churches, our temples, and yes, even in the workplace.

The proposed EEOC guidelines would have been typical in the former Soviet Union, but they have no place in a country founded upon religious freedom.

So I say to my colleagues—do your duty, uphold your constitutional oath as a Congressman, and vote to protect the free exercise of religion for all Americans. Vote for the Taylor/Wolf amendment and against the proposed EEOC guidelines.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield three minutes to the freshman who has worked extremely hard and distinguished himself in his first year, the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I agree that the draft EEOC guideline of October 1, 1993, insofar as it addresses on-the-job harassment of individuals on the basis of religion, should not take effect and should not be enforced. On this point nearly every organization concerned with religious liberty in America agrees.

The EEOC is, as far as I understand it, working on a revised rule based on the many comments it has received during the comment period. That is the purpose of a comment period, and it seems to have worked in this case.

I want to make clear, however, that while I agree that the draft rule in question is overbroad, I strongly believe that the final guideline on harassment must not omit protection against harassment on the basis of religion. On-the-job harassment against religious Americans is a real and pressing problem. It is also illegal under existing law. Neither the EEOC's guidelines nor the gentleman's amendment change this important legal protection of every citizen's religious liberty as codified in current law. Harassment of devout Americans is a real problem with real remedies.

This House, by adopting this amendment, will not nullify those remedies, nor will we undermine the EEOC's authority to enforce the law. It would be dangerous for the Congress or the EEOC to suggest that the harassment of working people, because they are engaging in the practice of their first freedom, might be tolerated.

The EEOC should have a chance, should have time, to develop a properly drafted, carefully limited guideline, to define and prohibit harassment based on religion. A carefully drafted guideline prohibiting harassment of religious individuals would not create, as some have feared, a religion-free workplace. If, however, Congress or the EEOC failed to state with adequate clarity the full extent of the existing legal protection against on-the-job harassment, then we would have taken a giant, if misguided step, toward a religion-free workplace and a religion-free society.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I share the gentleman's comment. I hope in the future we will have regulations that will not impinge on religious rights.

Mr. Chairman, I yield one minute to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we live today in a peculiarly strange era in which traditional American values are continually shelved, abandoned and trashed.

The Surgeon General appears to be the leading spokesperson in this tasteless effort. When she advises young Americans regarding their sexual activities, she places more significance upon their daily supply of condoms, rather than emphasizing abstinence. She believes we should consider legalizing illegal drugs, snorting coke, shooting heroin, but in the same breath she suggests that tobacco, a legal product, be declared unlawful.

Now she is offended when religious persons dare to become involved in the political process.

And this brings us to the matter of religious harassment. Sanity, a rare ingredient here, is detected in the contents of the Taylor amendment. It simply says to the EEOC there are more pressing problems plaguing us than displaying bibles in the workplace or the wearing of a cross or the Star of David.

I urge support of the Taylor amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield one-half minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was in my office and I heard my good friend the gentleman from California, DON EDWARDS, speak. You know, one man's harassment is somebody else's free exercise. If I wanted to wear a crucifix and you wanted to wear a Star of David, we both should be permitted under the Constitution to wear our symbols and not assume the other person is harassing us.

The Constitution protects free exercise. It does not say anything about harassment. That is a refinement that we have found within the parameters of the Constitution. But the free exercise of religion ought not be impaired by the EEOC or anybody. And if you want to wear a yarmulke, God bless you. And if I want to wear a rosary, God bless me. That is free exercise of religion.

□ 0020

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in strong support of this amendment and would ask Members to vote in favor of it. When we saw the intolerance that was going on in Saudi Arabia when the simple wearing of a cross on the Army chaplain's uniform was barred, Americans were outraged. The seeds of that kind of intolerance are being sown by the proposed EEOC proposal.

This amendment stops it in its tracks. Hopefully, they can come up with a regulation that will comport with tolerance and the kind of religious freedom that we have known and loved in this country.

Mr. Chairman, it became known that U.S. military personnel deployed in Saudi Arabia as part of Operation Desert Storm were prohibited from wearing any religious symbols or from overt religious activities—Americans were outraged.

Even the U.S. Army chaplains in Saudi Arabia were barred from overt display or "expression" and had to conceal religious insignias on their uniform. The priest that married my wife and me 16 years ago—a chaplain in Desert Storm—told us stories of how this policy played out in everyday life. And it wasn't pretty.

Mr. Speaker, America is not Saudi Arabia. Religious tolerance is a hallmark of American democracy. Yet the regulations suggested by the Equal Employment Opportunity Commission may very well lead us in that direction. These proposed rules are sowing the seeds of religious intolerance, and the American people are not going to stand for it. Therefore, I urge my colleagues to vote yes on the amendment to be offered by my distinguished colleagues Mr. WOLF and Mr. TAYLOR. This amendment will in essence nullify the regulations proposed by the EEOC last October.

The EEOC claims these rules are necessary to prevent people from being persecuted because of religious beliefs, but the practical effect of these rules will be to simply eliminate religious expression.

Nobody questions the need to root out intolerant behavior in the workplace, and nobody objects to these rules on that basis. But these regulations are so broadly worked that the door will be opened to frivolous lawsuits against employers, which will in turn cause many businesses to adopt policies prohibiting any religious expression in the workplace, rather than risk expensive litigation.

In fact, there is evidence that this process has already begun, even before the EEOC regulations have been finalized. Earlier this year, a major U.S. corporation issued a sweeping personnel policy that stated in part:

* * * personnel should not possess nor display, in any manner, on [company] premises any material which may be construed, by anyone, to have religious, overtones whether positive or negative.

This is not a proposal, this is not a first draft, this is final, Mr. Speaker. A major corporation has told its employees that wearing a crucifix or a Star of David symbol is prohibited. Bibles in employee lockers or on a desk in an office are now considered contraband. How about the carols at the office Christmas Party? That may have to fall by the wayside in our brave new America which has been sanitized of any religious expression.

Frankly, it is amazing that we have to revisit the issue of religious freedom in Congress. My colleagues could be forgiven for thinking that we settled this issue last year, with the amendment of the Religious Freedom Restoration Act. This was supposed to protect the religious practices of citizens from undue government interference.

The new EEOC regulations, if implemented, however will result in a real erosion of the freedoms that were supposed to be protected by the Religious Freedom Restoration Act. If implemented, the EEOC regulations will generate a flood of expensive and needless court cases.

But this is not inevitable. We can approve the Taylor-Wolf amendment and stop this misguided policy in its tracks. Most importantly, we can assure the American people that we do not take freedom of religion lightly, and that this Congress will not preside over any erosion of that precious right, I urge my colleagues to vote yes on the Taylor-Wolf amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 15 seconds to the gentleman from Florida [Mr. CANADY].

Mr. CANADY. Mr. Chairman, I rise in support of the amendment.

I rise to speak in favor of the Taylor-Wolf amendment.

The first article of amendment to the U.S. Constitution provides unequivocally that Congress shall make no law prohibiting the free exercise of religion.

But the tradition of religious freedom in this land existed long before the First Amendment was proposed and adopted.

Indeed, the search for religious freedom was the primary reason many left their homes in Britain and traveled across the Atlantic to the American colonies.

They sought a land where they would be free to worship and serve God according to the dictates of their own conscience—without the interference of the King or any other civil authority.

The freedom they sought has been a reality throughout the history of this land. And it is the responsibility of the Members of this House to protect and preserve that freedom.

This Congress has many important responsibilities under the Constitution. But we have no higher duty than the duty to defend religious freedom.

The workplace harassment guidelines are totally at odds with the principle of religious freedom.

These guidelines evidence a cavalier disregard for the requirements of the first amendment.

They fail to take into account that the exercise of religion have a special protected status under the Constitution of the United States.

These guidelines would place an intolerable burden on religious expression in the workplace. They would, indeed, encourage employers to establish policies coating a religion-free workplace.

Every Member of this House took an oath to support and defend the Constitution of the United States.

We should remember that oath when we vote on this amendment tonight.

We should adopt the amendment and stop the EEOC's ill-conceived attempt to support the free exercise of religion in the American workplace.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 15 seconds to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. Mr. Chairman, I rise in strong support of the Taylor amendment and in strong opposition to the EEOC attempt to hinder religious freedom.

This measure will send a clear message to the EEOC that any attempt to hinder religious freedom—guaranteed in the first amendment to our Constitution—is unacceptable to the American people and will not be tolerated by this Congress.

Anyone, employer or employee, appreciates the importance of a productive working atmosphere. However, the regulations proposed by the EEOC, undermine the ability of American businesses to independently create and foster a suitable working environment and unnecessarily restrict and hinder the freedom of expression of every American worker.

I have received hundreds of phone calls and letters from Alabamians—construction and factory workers, school teachers, secretaries and students, retirees and owners of small and large businesses. They want to know what their Congressman is going to do to stop the Government from further intruding into their lives and livelihoods. They accurately see the EEOC proposal as opening a "Pandora's Box." Out of the box will come costly litigation based merely on the opinion of a disgruntled employee. Out of that box will also come distrust and ill will in the workplace, where none, and let me stress none now exists, except in the imagination of the EEOC.

Our country was funded as a refuge and haven from religious persecution. The proposed action by the EEOC will in large part destroy that haven and wreck that refuge. I encourage my colleagues to support this amendment. Send a message to the EEOC and any other group that dares to breech the Constitution of the United States. The EEOC has gone too far. Let us hit the EEOC where it hurts—right in the pocketbook.

Mr. TAYLOR of North Carolina. Mr. Chairman, we appreciate the indulgence of the House. It has been a very important amendment, we think.

We urge Members to support it.

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

Mr. BALLENGER. Mr. Chairman, I rise in support of the Taylor-Wolf amendment.

Hundreds of constituents have called and written to express their deep concern about the Equal Employment Opportunity Commission [EEOC] proposed guidelines on harassment in the workplace based on religion.

Basically the EEOC seeks to add religion to other categories of employee harassment, race, gender, age under Federal civil rights laws. These guidelines have serious constitutional implications and may violate the freedom of expression of religion guaranteed by the first amendment.

Freedom of religion is one of our most sacred rights and should not be compromised by the overzealous actions of the EEOC. To permit these guidelines to be implemented with the category of religion included is an open invitation to litigate against employers who allow their employees to exercise their first amendment rights.

I strongly support the Taylor-Wolf amendment. Join me in voting yes

Mrs. LLOYD. Mr. Chairman, I rise in strong support of the Wolf-Taylor amendment to the Commerce, Justice, and State Appropriations bill of 1994. The Wolf-Taylor amendment would prohibit funding for the Equal Employment Opportunity Commission [EEOC] to implement, administer, or enforce the proposed guidelines that would prohibit religious harassment in the workplace.

This amendment sends a clear message to the EEOC, that the ambiguous language of the proposed EEOC guidelines regarding religious harassment in the workplace has the potential to generate misinterpretations and frivolous litigation. This is not only a burden on employers and the courts, but the guidelines would create a rigid and awkward working environment, which could consequently lead to organizational inefficiency.

I feel the freedom of religion is a right that should not be denied to any American citizen. I have consistently supported efforts in Congress to preserve the right of freedom of religion. Earlier this year I supported the Religious Freedom Restoration Act [RFRA], which passed the House on May 11, 1993.

RFRA ensures the protection of the full exercise of religion, as defined in the first amendment of the Constitution. RFRA is narrowly tailored by expressly prohibiting a law from "substantially burdening a person's exercise of religion". This strict scrutiny of the RFRA and the first amendment protects employees' rights to exercise religion. The broad definitions apparent in EEOC's proposed guidelines on religious harassment may negate the entire intent of the RFRA. Moreover, the guideline's vague language challenges the first amendment of the Constitution.

Mr. Chairman, the freedom to exercise religion is a right that must not be denied to any American. The first amendment and passage of RFRA makes it clear that Americans' right to exercise religion shall not be infringed upon. The Wolf-Taylor amendment takes the necessary step to ensure that American's religious freedoms are not eviscerated. I urge my colleagues to support this measure.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the Taylor amendment.

We need to make it clear that EEOC regulations will not restrict religious freedom in the work place.

This is a very important amendment and it should be passed.

Mr. POSHARD. Mr. Chairman, I rise in support of the amendment offered by my colleagues which will prohibit funding appropriated for the Equal Employment Opportunity Commission to implement, administer, or enforce proposed guidelines that prohibit religious harassment in the workplace. I have heard from hundreds of my constituents who fear intolerable infringement on their rights under the first amendment should the guidelines, as proposed, be finalized, and I agree.

The proposed guidelines in fact promote a "religion free" workplace where companies, in order to avoid liability, may arbitrarily prohibit any display of a person's religion. In our country, where a primary purpose of its Founders was to seek a place of escape from religious persecution and harassment, the actions proposed by the EEOC are truly ironic and yes, even frightening. Unless the proposed guidelines can be revised to demonstrate no possibility of misguidance regarding religious harassment in the workplace, I believe the Taylor-Wolf amendment is imperative, and I urge Members to support this effort to assure every American the right to witness as a Christian or to have religious literature or symbols in the workplace.

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of the Taylor-Wolf amendment to the Commerce, State, Justice Appropriations bill.

This amendment will prevent the Equal Employment Opportunity Commission [EEOC] during the next year from implementing the proposed guidelines covering harassment based on religion. Its passage will help protect the Constitutionally protected religious liberty we all enjoy.

In an effort to protect the nonbeliever, the EEOC's proposed rules have overlooked the rights of the religious to freely express their beliefs. I believe the EEOC has a statutory responsibility to enforce the laws against prejudice in hiring, promotions and other aspects of employment on the basis of an employees's religious affiliation or beliefs. Nevertheless, the regulations proposed by the EEOC go much further than what the law or common sense requires.

Because the guidelines are so subjectively written, for an employer to follow them to the letter without fear or legal action, "religion free" workplaces would have to be created. To permit these guidelines to be implemented with the category of religion included is to invite litigation against employers who allow their employees to exercise their first amendment rights.

Freedom of religion is specifically protected by the first amendment. It is one of the foundations on which our Nation was built. In addition, the 1993 Religious Freedom Restoration Act bars the Government from burdening the free exercise of religion with regulations unless the State shows a compelling interest.

Existing law on harassment has, among other things, recognized that harassment on the basis of religion constitutes a violation of the law. This reinforces the EEOC's position that the same analysis applies to all hostile environment cases whether the harassment is based on gender, race, religion, or national origin. The courts have previously interpreted this to mean: "When an employee is repeatedly subjected to demeaning and offensive religious slurs before his fellows by a coworker and by his supervisor, such activity necessarily has the effect of altering the conditions of his employment within the meaning of Title VII."

There is a big difference between a person who ridicules a coworker's religious beliefs, and a person who expresses his or her religious beliefs by keeping a Bible on a desk or by wearing a cross on a chain. I suppose that an open Bible on a desk or a cross on a chain could be offensive to certain individuals. But being offended by seeing an object is not equivalent to being harassed by the person to whom the object belongs.

Referring to the conflict between the States, President Lincoln once said, "The central idea pervading this struggle is the necessity that is upon us of proving that popular government is not an absurdity." Mr. Speaker, these EEOC regulations come close to proving the absurdity of popular government. I urge passage of the Taylor-Wolf amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. TAYLOR].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 366, noes 37, answered "present" 1, not voting 35, as follows:

[Roll No. 289]

AYES—366

Ackerman	Combest	Gordon
Allard	Condit	Goss
Andrews (ME)	Cooper	Grams
Andrews (NJ)	Coppersmith	Grandy
Applegate	Costello	Green
Archer	Cramer	Greenwood
Armey	Crane	Gunderson
Bacchus (FL)	Crapo	Hall (OH)
Bachus (AL)	Cunningham	Hall (TX)
Baesler	Danner	Hamilton
Baker (CA)	Darden	Hancock
Baker (LA)	de la Garza	Hansen
Ballenger	de Lugo (VI)	Harman
Barca	Deal	Hastert
Barcia	DeFazio	Hayes
Barlow	DeLauro	Hefley
Barrett (NE)	DeLay	Hefner
Barrett (WI)	Deutsch	Herger
Bartlett	Diaz-Balart	Hoagland
Barton	Dickey	Hobson
Bateman	Dicks	Hochbrueckner
Beilenson	Dingell	Hoekstra
Bentley	Dixon	Hoke
Bereuter	Dooley	Holden
Berman	Doolittle	Horn
Bevill	Dornan	Houghton
Bilbray	Dreier	Hoyer
Bilirakis	Duncan	Huffington
Bishop	Dunn	Hughes
Bliley	Durbin	Hunter
Blute	Edwards (TX)	Hutchinson
Boehlert	Ehlers	Hutto
Boehner	Emerson	Hyde
Bonilla	English	Inglis
Bonior	Eshoo	Inhofe
Borski	Evans	Inslee
Boucher	Everett	Istook
Brooks	Ewing	Jacobs
Browder	Farr	Jefferson
Brown (CA)	Fawell	Johnson (CT)
Brown (OH)	Fazio	Johnson (GA)
Bryant	Fields (LA)	Johnson (SD)
Bunning	Fingerhut	Johnson, E. B.
Burton	Flake	Johnson, Sam
Buyer	Foglietta	Kanjorski
Byrne	Fowler	Kaptur
Callahan	Franks (CT)	Kasich
Calvert	Franks (NJ)	Kennedy
Camp	Frost	Kennelly
Canady	Furse	Kildee
Cantwell	Gallegly	Kim
Cardin	Gallo	King
Carr	Gekas	Kingston
Castle	Gephardt	Kleczka
Chapman	Geren	Klein
Clayton	Gilchrest	Klink
Clement	Gillmor	Klug
Clinger	Gilman	Knollenberg
Clyburn	Gingrich	Kolbe
Coble	Glickman	Kreidler
Coleman	Goodlatte	Kyl
Collins (GA)	Goodling	LaFalce
Lambert	Neal (MA)	Shepherd
Lancaster	Neal (NC)	Shuster
Lantos	Nussle	Sisisky
LaRocco	Oberstar	Skeen
Laughlin	Obey	Skelton
Lazio	Ortiz	Slattery
Leach	Orton	Slaughter
Lehman	Oxley	Smith (IA)
Levin	Packard	Smith (MI)
Levy	Pallone	Smith (NJ)
Lewis (CA)	Parker	Smith (TX)
Lewis (FL)	Pastor	Snowe
Lewis (KY)	Paxon	Solomon
Lightfoot	Payne (VA)	Spence
Linder	Penny	Spratt
Lipinski	Peterson (FL)	Stearns
Livingston	Peterson (MN)	Stenholm
Lloyd	Petri	Strickland
Long	Pickett	Studds
Lowey	Pickle	Stump
Lucas	Pomeroy	Stupak
Machtley	Porter	Sundquist
Maloney	Portman	Swett
Mann	Poshard	Swift
Manton	Price (NC)	Synar
Manzullo	Quillen	Talent
Margolies-Mezvinsky	Quinn	Tanner
	Rahall	Tauzin
Markey	Ramstad	Taylor (MS)
Martinez	Ravenel	Taylor (NC)
Mazzoli	Reed	Tejeda
McCrery	Regula	Thomas (CA)
McCurdy	Richardson	Thomas (WY)
McDade	Roberts	Thompson
McDermott	Roemer	Thornton
McHale	Rogers	Thurman
McHugh	Rohrabacher	Torkildsen
McInnis	Romero-Barcelo (PR)	Traficant
McKeon		Tucker
McKinney	Ros-Lehtinen	Underwood (GU)
McNulty	Roth	Unsoeld
Meek	Roukema	Upton
Menendez	Rowland	Valentine
Meyers	Royce	Vento
Mfume	Sabo	Visclosky
Mica	Sangmeister	Volkmer
Michel	Santorum	Vucanovich
Miller (CA)	Sarpalius	Walker
Miller (FL)	Sawyer	Walsh
Mineta	Saxton	Weldon
Minge	Schaefer	Wheat
Moakley	Schenk	Wilson
Molinari	Schiff	Wise
Mollohan	Schroeder	Wolf
Montgomery	Schumer	Wyden
Moorhead	Scott	Wynn
Moran	Sensenbrenner	Young (AK)
Morella	Serrano	Young (FL)
Murphy	Sharp	Zeliff
Murtha	Shaw	Zimmer
Myers	Shays	

NOES—37

Abercrombie	Gonzalez	Roybal-Allard
Becerra	Gutierrez	Sanders
Clay	Hamburg	Stark
Collins (IL)	Hinchey	Stokes
Collins (MI)	Johnston	Torres
Conyers	Kopetski	Velazquez
Coyne	Lewis (GA)	Waters
Dellums	Mink	Watt
Edwards (CA)	Nadler	Waxman
Engel	Norton (DC)	Woolsey
Filner	Olver	Yates
Frank (MA)	Payne (NJ)	
Gejdenson	Pelosi	

ANSWERED "PRESENT"—1

Skaggs

NOT VOTING—35

Andrews (TX)	Gibbons	Rangel
Blackwell	Hastings	Reynolds
Brewster	Hilliard	Ridge
Brown (FL)	Matsui	Rose
Cox	McCandless	Rostenkowski
Derrick	McCloskey	Rush
Faleomavaega (AS)	McCollum	Smith (OR)
	McMillan	Torricelli
Fields (TX)	Meehan	Towns
Fish	Owens	Washington
Ford (MI)	Pombo	Whitten
Ford (TN)	Pryce (OH)	Williams

□ 0040

Mr. BROOKS and Mr. PICKLE changed their vote from "no" to "aye."

Mr. TORRES changes his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 0040

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation the amendments be agreed to and that the bill, as amended, do pass.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I expect that soon the floor manager will be moving that the committee rise and report this bill back to the House. This is not just a procedural motion, Mr. Chairman. If his effort succeeds, it will mean that for another year the money in this Commerce, Justice, State Appropriations bill will go to illegal aliens, even as many American citizens have go without those same benefits.

This policy is wrong, Mr. Chairman. This policy is wrong because our country should not be handing out any benefits to illegal aliens on the same basis as American citizens. This policy is wrong because it entices more and more people to come into our country illegally.

And, Mr. Chairman, this policy is wrong because it is simply unfair to American citizens and legal residents, and U.S. citizens and legal residents who should always come first when taxpayer money is spent.

Yet the leadership on the other side wants a vote for a motion that will continue this failed policy. Because the point of this motion is to deny me the right to offer an amendment that says, no more. My amendment, which adoption of this motion would prevent me from offering, says that we are going to stop the nonsensical policy of giving benefits to illegal aliens.

Let me offer my colleagues examples of what will happen if the motion to rise passes. This bill funds the Small Business Administration and the Legal Services Corporation. Because there has never been enough money in those budgets, not everyone who is eligible for assistance from these agencies can be helped.

In the case of the Small Business Administration, there is no restriction on assisting people who are in this country illegally. In the case of the Legal Services Corporation, although there some restrictions, many illegal aliens are still eligible for assistance under the so-called "PRUCOL" provisions.

Because we don't have enough money to help everybody, every illegal alien who receives benefits under these programs is getting those benefits instead

of an American citizen or legal resident.

Let us stop this insane policy of handing out taxpayer paid benefits to anyone who can make it into this country illegally. Vote "no" on the motion to rise.

Mr. SMITH of Texas. Mr. Chairman, I join with Representatives ROHRABACHER, LIGHTFOOT, LIVINGSTON, and ROGERS in opposition to the preferential motion to rise. Like many other Members, I testified to have a limitation amendment made in order prior to the preferential motion to rise.

My amendment to the Commerce, Justice, State Appropriations bill would have allowed no funds to be made available to carry out the return to Mexico of any Mexican national who is a prisoner convicted of a felony in the United States without a final order of deportation.

Under a 1977 treaty between the United States and Mexico, Mexican nationals convicted of a felony in the United States may be returned to Mexico to complete their sentences if they request it. While this can alleviate some prison overcrowding, unfortunately most transfers are being done on a voluntary departure basis rather than on a formal order of deportation.

There are immigration consequences to this shortcut. Persons who voluntarily depart can keep illegally re-entering the United States without threat of serious penalties. Formal deportation, however, carries the threat of 15 year imprisonment for those who break the law and re-enter.

The re-entry penalty was enacted to be a strong deterrent to criminal aliens who have been deported from our country. There's no use in having a strong deterrent law on the books if we are going to circumvent it by allowing voluntary departure for criminal aliens who should be deported.

Since I cannot offer my amendment before the preferential motion to rise, I am supporting the attempt to defeat the preferential motion to rise and urge other Members to do so as well.

If this motion is defeated, then I intend to offer my limitation amendment to clarify what the nation's priorities should be in the handling of these transfers of criminal aliens.

Amendment to H.R. 4603, as reported, offered by Mr. SMITH of Texas:

At the end of the bill, add the following new title:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used to permit or carry out the return to Mexico of any Mexican national who is a prisoner convicted of a felony in the United States when it is made known to the Federal entity or official to which the funds are made available that the prisoner is not the subject of a final order of deportation.

Mr. KIM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to strongly oppose the motion to rise which will prevent us from considering the Rohrabacher amendment to prohibit illegal aliens from continuing to receive benefits funded under this legislation.

In particular, the legal assistance and small business loans provided through the programs in this appropriations bill are intended to help needy American citizens and legal residents—not people who have broken the law by sneaking into our country illegally.

As someone who legally entered this country and became an American citizen, I cannot accept seeing American citizens and legal residents being denied the limited Federal money they desperately need just because Federal bureaucrats have given the money away to illegal aliens. This makes no sense. We must stop taking advantage of the generous nature of the American people.

Congress will be failing in its responsibilities to the American people by continuing to provide incentives that will simply increase the raging tide of illegal aliens that is breaking the budgets of our State and local governments.

The State of California now spends at least $2.5 billion a year to provide federally mandated services to illegal aliens, a skyrocketing cost that California taxpayers must pay that has driven my home State to the edge of economic chaos.

In addition, according to the California Board of Corrections, local governments last year spent almost $120 million to pay for the cost of incarcerating illegal aliens in local jails.

Thus, in order to meet our responsibility to the American people, we must defeat the motion to rise and support the Rohrabacher amendment.

Mr. MOLLOHAN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. BONIOR] having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LIGHTFOOT

Mr. LIGHTFOOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LIGHTFOOT. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LIGHTFOOT moves to recommit the bill H.R. 4603 to the Committee on Appropriations with instructions to report back the same forthwith with the following amendment: On page 81, line 8, strike "$533,304,000" and insert "$507,871,000".

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LIGHTFOOT] is recognized for 5 minutes.

Mr. LIGHTFOOT. Mr. Speaker, this motion to recommit is very straightforward. It strikes the $25 million in fiscal year 1995 funds which are budgeted as our contribution to United Nations peacekeeping operations in Haiti.

As we all read in the Saturday New York Times, the Clinton administration is now preparing a 14,000-member peacekeeping force, half to be made up of U.S. troops, to occupy Haiti in the event the Haitian military leaders decide to leave.

As many of you may recall, the Governors Island Accords envisioned a peacekeeping force of less than 600. Two weeks ago that force grew to 4,000. Now that force has grown to 14,000 troops because the Clinton administration wants to be prepared to deal with any eventuality.

Mr. Speaker, the Clinton administration has learned nothing from its nation-building adventure in Somalia, which cost some of my constituents their lives. The four stated goals of this proposed operation do not include any American exit strategy. Already the Pentagon is in opposition to this plan because they realize the force would have no mandate and they are uneasy with the prospect of maintaining civil order.

Canada has already declined to participate in this proposed force. And in a sad commentary on democracy in America, the Argentine President said Argentina's participation in a Haitian occupation force would depend upon the consent of the Argentine Parliament.

Maybe the NED should sponsor a grant to the leadership of the majority party and send them to Argentina to learn about democracy.

In Somalia, Congress did not exercise sufficient oversight and our troops paid the price. My friends, when the casualties from Bill Clinton's Haitian nation-

building experiments start to mount, don't let it be said we did not have the opportunity to weight in on this matter.

Let's remove funds from this bill for Haitian peacekeeping now, and, once the President shows us a plan and demonstrates the national interest, consider adding the money back in. It's the only prudent course.

LARGE HAITI FORCE IS WEIGHED BY UNITED STATES

SIZE PUT AT 12,000 TO 14,000 WITH HALF FROM THE UNITED STATES

(By ELAINE SCIOLINO)

WASHINGTON—The Clinton Administration is preparing a plan for Haiti, if and when its military leaders leave power, to create an international peacekeeping force that would involve several thousand American troops, police and civilian contractors, senior Administration officials said today.

The size of the United Nations-mandated force is expected to be 12,000 to 14,000 troops, about half of them Americans, although the officials said the final number could change.

The size of such a force, which would be authorized by the United Nations if the ousted President, the Rev. Jean-Bertrand Aristide, is returned to office, is much larger than earlier anticipated. Less than two weeks ago, some senior Administration officials suggested that a force of 3,000 to 4,000 would be sufficient.

Following a number of intragency meetings in recent days, the Administration concluded that a much larger force was necessary.

Administration officials said that the United States would press the United Nations would press the United Nations to create the larger force because Washington wants to insure that it would be able to deal with any eventuality in Haiti, particularly in light of the polarization of Haitian society and the absence of civil institutions.

It is unclear how many of the thousands of Americans participating in the force would be armed troops. Buts in a recent classified memo to Washington, Madeleine K. Albright, the United States representative at the United Nations, said that Washington wanted to reduce its troop contribution to 3,000 very quickly after the force goes to into Haiti, said one Administration official familiar with the memo.

Some senior Pentagon officials remain strongly opposed to the formation of such a large force, because it would involve a large number of American soldiers and because there is no clear idea on what the force's mandate would be, Administration officials said.

Even though all relevant agencies of government have signed off on a plan for the international force, the plan could be modified or even shelved if opposition in some parts of the Pentagon is strong enough.

One indication of opposition to the plan came after State Department officials said early in the day that the Administration intended to present the new plan to Father Aristide and to begin consultations with key lawmakers next week.

There already have been some consultations with the United Nations and with foreign governments, and President Clinton discussed the new force with Argentina's President Carlos Menem at the White House today.

But later in the day, a White House official said that President Clinton has not yet signed off on the plan and that there would be no consultations with Congress next week.

FOUR GOALS

The plan, at least in its current form, has four goals for the peacekeepers: the protection of democratic leaders and institutions, the professionalization of the military and retraining of the military and retraining of the police, the protection of the international humanitarian and human rights workers and the maintainence of essential civil order.

Those goals were set out earlier this month at a meeting in Brazil of foreign ministers of the Organization of American States, and were endorsed by Father Aristide.

But the fourth task—maintaining civil order—is fraught with ambiguity and makes some officials uneasy.

Some senior officials said that about a dozen countries have expressed a willingness to take part in the force in small numbers, particularly in sending police officers and trainers, leaving the United States to provide the bulk of the military and logistical support.

Canada, for example, could probably be expected to contribute Royal Canadian Mounted Police officers and engineers and helicopters to the force. It has also announced that it will train about 500 Haitian exiles as police and police trainers in Canada.

REQUEST FOR BATALLION DENIED

But the Canadians have already refused an American request to contribute a combat batallion of about 800 soldiers, the Administration officials said.

At a press briefing at the White House today, Mr. Menem said that it would be up to the Argentine Parliament to decide whether his country would participate in an invasion force to restore Father Aristide to power. He said that he, as President, could decide on his own whether to send in peacekeeping troops after democracy was restored, but did not say whether he was prepared to do so.

There are currently 870 Americans serving in peacekeeping missions around the world. But the situation in Haiti and Bosnia could change that in the coming months.

If the Bosnian Government and the Serbs move closer to a peace agreement, there is the possibility that the United States would have to live up to its commitment to deploy peacekeeping troops to Bosnia as part of a force of perhaps 50,000 troops to implement the settlement.

Although senior Administration officials say it is unlikely, the United States could conceivably find itself in the position of suddenly having to contribute thousands of troops to both Haiti and Bosnia.

ARISTIDE'S SUPPORT NEEDED

As for Haiti, Ms. Albright, who is actively lobbying allies in Europe and in the hemisphere to offer troops to the force, is said to believe that Father Aristide's wholehearted support is necessary to win the endorsement of the United Nations and troop contributions from other countries.

A United Nations-brokered agreement, reached last July at Governor's Island in New York between Father Aristide and the military leadership, envisioned an international peacekeeping force of 600 American troops and engineers about 170 others.

But in helping to create that force, the United States assumed it would be warmly welcomed as the means to professionalize the military and retrain the police. That force did not have the maintenance of public security in its mandate.

But the agreement fell apart last October, after the destroyer Harlan County, carrying American and Canadian trainers and peacekeepers, was confronted with a mob demonstrating on the docks at Port au Prince and turned back.

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

Mr. LIGHTFOOT. I am happy to yield to my friend, the gentleman from Louisiana.

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

Mr. Speaker, I support his motion. I just say Secretary Strobe Talbott and the President look like they are trying to invade Haiti. Why Haiti? Because it is close?

Cuba is closer. Why should we invade Haiti? Is there a lack of democracy? Cuba has a lack of democracy for even longer. There is greater suffering in Cuba. There is just as much immigration if not more from Cuba.

Mr. Speaker, if we are going to invade Haiti, the President should do exactly what the last President did and come to Congress and get authorization from us first. There is no national interest in invading Haiti, but let the President say what the national interest is before doing it on our July 4 recess or in September or at Christmas or at any time. Let him not deploy troops to Haiti. Let him not risk the life of one single person in uniform, male or female, for the likes of Jean-Bertrand Aristide. Let him not send our troops to Haiti without the authorization of every person in this House of Representatives.

I urge the adoption of the gentleman's motion to recommit.

Mr. Lightfoot. Mr. Speaker, in closing I would simply say that if Members want to vote in support of our men and women in uniform, an aye vote is the only vote we can have on this motion to recommit.

Mr. MOLLOHAN. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I think the amendment is patently unwise for the same reason I have heard very cogent arguments made on the other side with regard to telegraphing our intentions with any international situation, thereby taking options off the table. They ought not to know what we are or are not going to do with regard to military force or nonmilitary force or U.N. options or peacekeeping options or peacemaking options. We should not be taking that away from the President as he is dealing with this very delicate international crisis situation.

Mr. Speaker, I have heard that argument made, as I said, very cogently on the other side with regard to other situations. It is equally applicable to Grenada, Panama, El Salvador as that argument is with regard to Haiti. This is an unwise amendment. We should not telegraph our intentions or take options away from the President as he deals with this matter.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. LIGHTFOOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 214, not voting 35, as follows:

[Roll No. 290]

AYES—185

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Machtley
Manzullo
McCrery
McDade
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—214

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hamburg
Hamilton
Harman
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCurdy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Poshard
Price (NC)
Rahall
Reed
Richardson
Roemer
Ros-Lehtinen
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—35

Blackwell
Brewster
Brown (FL)
Chapman
Derrick
Fields (TX)
Fish
Ford (MI)
Ford (TN)
Gephardt
Gibbons
Hall (OH)
Hastings
Hilliard
Matsui
McCandless
McCloskey
McCollum
McMillan
Meehan
Owens
Pombo
Pryce (OH)
Rangel
Reynolds
Ridge
Rose
Rostenkowski
Rush
Smith (OR)
Torricelli
Towns
Washington
Whitten
Williams

□ 0105

Mrs. LLOYD changed her vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BONIOR). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. ROGERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 286, noes 112, not voting 36, as follows:

[Roll No. 291]

AYES—286

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Fowler
Frank (MA)
Frost
Furse
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hamburg
Hamilton
Harman
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Ravenel
Reed
Richardson
Roemer
Rogers
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stearns
Stokes
Strickland
Studds
Stupak
Swift
Synar

Tanner	Tucker	Watt
Tauzin	Unsoeld	Waxman
Taylor (NC)	Upton	Wheat
Tejeda	Valentine	Wilson
Thomas (CA)	Velazquez	Wise
Thompson	Vento	Wolf
Thornton	Visclosky	Woolsey
Thurman	Volkmer	Wyden
Torkildsen	Vucanovich	Wynn
Torres	Walsh	Young (FL)
Traficant	Waters	

NOES—112

Allard	Grams	Oxley
Andrews (NJ)	Greenwood	Paxon
Archer	Gunderson	Penny
Armey	Hall (TX)	Peterson (MN)
Bachus (AL)	Hancock	Petri
Baker (CA)	Hansen	Portman
Baker (LA)	Hastert	Quillen
Ballenger	Hefley	Ramstad
Bartlett	Herger	Regula
Barton	Hobson	Roberts
Boehner	Hoekstra	Rohrabacher
Bunning	Hoke	Ros-Lehtinen
Burton	Huffington	Roth
Calvert	Inglis	Royce
Camp	Inhofe	Santorum
Coble	Istook	Saxton
Collins (GA)	Jacobs	Schaefer
Combest	Johnson (CT)	Sensenbrenner
Condit	Johnson, Sam	Shays
Cox	Kasich	Shuster
Crane	Kim	Smith (MI)
Crapo	Kingston	Smith (TX)
DeLay	Klug	Solomon
Diaz-Balart	Knollenberg	Spence
Doolittle	Lazio	Stenholm
Dornan	Lewis (FL)	Stump
Dreier	Lewis (KY)	Sundquist
Duncan	Linder	Swett
Dunn	Lucas	Talent
Ehlers	McHugh	Taylor (MS)
Everett	Mica	Thomas (WY)
Fawell	Miller (FL)	Walker
Franks (NJ)	Minge	Weldon
Gallo	Molinari	Young (AK)
Gillmor	Moorhead	Zeliff
Goodlatte	Myers	Zimmer
Goodling	Nussle	
Goss	Orton	

NOT VOTING—36

Blackwell	Hilliard	Reynolds
Brewster	Matsui	Ridge
Brown (FL)	McCandless	Rose
Derrick	McCloskey	Rostenkowski
Fields (TX)	McCollum	Rush
Fish	McMillan	Smith (OR)
Ford (MI)	Meehan	Torricelli
Ford (TN)	Murtha	Towns
Gephardt	Owens	Washington
Gibbons	Pombo	Whitten
Hall (OH)	Pryce (OH)	Williams
Hastings	Rangel	Yates

□ 0113

The Clerk announced the following pair:

On this vote:

Mr. Yates for, with Mr. Smith of Oregon against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. PRYCE of Ohio. Mr. Speaker, due to family considerations I was detained in my Ohio congressional district on Monday, June 27, 1994, and was not present to vote on the following amendments to H.R. 4603, the Commerce-State-Justice appropriations bill. Had I been here, I would have voted "Yes" on the Burton amendment recorded in the RECORD as rollcall vote No. 279, "Yes" on the Burton amendment recorded in the RECORD as rollcall vote No. 280, "Yes" on the Penny amendment recorded in the RECORD as rollcall vote No. 281, "Yes" on the Goodlatte amendment recorded in the RECORD as rollcall vote No. 282, "Yes" on the Hefley amendment recorded in the RECORD as rollcall vote No. 283, "Yes" on the Stearns amendment recorded in the RECORD as rollcall vote No. 284, "Yes" on the Inslee amendment recorded in the RECORD as rollcall vote No. 285, "Yes" on the Porter/Bentley amendment recorded in the RECORD as rollcall No. 286, "No" on the Condit amendment recorded in the RECORD as rollcall vote No. 287, "Yes" on the Rogers amendment recorded in the RECORD as rollcall No. 288, "Yes" on the Taylor amendment recorded in the RECORD as rollcall No. 289, "Yes" on the Lightfoot amendment recorded in the RECORD as rollcall No. 290, and "No" on final passage of H.R. 4603 recorded in the RECORD as rollcall No. 291.

PERSONAL EXPLANATION

Mr. FIELDS of Texas. Mr. Speaker, I was unavoidably detained during votes on H.R. 4603 on June 27, 1994. Had I been here, I would have voted in favor of the Burton amendment (Roll No. 279); against the Burton amendment (Roll No. 280); in favor of the Penny amendment (Roll No. 281); against the Goodlatte amendment (Roll No. 282); in favor of the Hefley amendment (Roll No. 283); in favor of the Stearns amendment (Roll No. 284); in favor of the Inslee amendment (Roll No. 285); against the Porter amendment (Roll No. 286); in favor of the Condit amendment (Roll No. 287); in favor of the Rogers amendment (Roll No. 288); in favor of the Taylor amendment (Roll No. 289); in favor of the Lightfoot amendment (Roll No. 290); and against final passage of the Commerce, Justice, State appropriations bill (Roll No. 291)

PERSONAL EXPLANATION

Mr. RUSH. Mr. Speaker, due to official business, I was unavailable for rollcall numbers 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, and 291.

Had I been present, I would have voted "nay" on 279, "nay" on 280, "nay" on 281, "nay" on 282, "nay" on 283, "nay" on 284, "aye" on 285, "aye" on 286, "nay" on 287, "nay" on 288, "nay" on 289, "nay" on 290, and "aye" on 291.

COMMUNICATION FROM THE HONORABLE GLENN POSHARD, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. COPPERSMITH) laid before the House the following communication from the Honorable GLENN POSHARD, Member of Congress:

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 24, 1994.

Hon. THOMAS S. FOLEY,
The Capitol,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena for documents concerning constituent casework issued by the United States District Court for the Southern District of Illinois in connection with a civil case.

After consultation with the General Counsel, I will determine if compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

GLENN POSHARD
Member of Congress.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4624, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND SUNDRY INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–563) on the resolution (H. Res. 465) waiving certain points of order against the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HOUR OF MEETING ON TOMORROW

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10:30 a.m. today

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

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, I am just concerned. This means that we do not come into session in the Congress until what time?

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

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, we would meet at 10:30 a.m.

Mr. SOLOMON. Mr. Speaker, I am wondering whether this has anything to do with morning hours. Earlier today the majority leader received unanimous consent to have us come in one hour early, at 9:30, in order to hold morning hours for an hour and a half, in which case we would have not started the regular session of Congress until 11 o'clock. Now I understand the gentleman is reversing that, and I am just wondering why.

Mr. MOAKLEY. It is because of the late hour we worked. We thought we would get out of here at a reasonable time, and we worked so late that we are just going to come in tomorrow morning at the usual time.

Mr. SOLOMON. Does this give some relief to the staff? Does this mean the

staff can come in an hour later on the floor here?

Mr. MOAKLEY. The gentleman is correct.

Mr. SOLOMON. If that is the case, Mr. Speaker, I have no objection.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. POMBO (at the request of Mr. MICHEL), for today and Tuesday, June 28, 1994, on account of a death in the family.

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today and tomorrow (June 28), on account of official business.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today between 3:30 p.m. and 4:45 p.m., on account of illness.

Mr. DEAL (at the request of Mr. GEPHARDT), for today before 8 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GOSS) to revise and extend his remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, on June 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. CAMP.
Mr. SOLOMON.
Mr. SANTORUM.
Mr. TALENT.
Mr. SHUSTER.
Mr. FAWELL.
Mr. SHAW.
Mr. NUSSLE.
Mr. STUMP.
Mrs. MORELLA.
Mr. CALVERT.
Mr. GREENWOOD.
Mr. GRAMS.
Mr. COBLE.
Mr. TAYLOR of North Carolina.

(The following Members (at the request of Mr. FINGERHUT) and to include extraneous matter:)

Mr. DE LUGO.
Mr. SMITH of Iowa.
Mr. COLEMAN.
Mrs. MEEK of Florida.
Mr. BROWN of California.
Mr. HAMILTON.
Mr. RAHALL.
Mr. LANTOS.
Mr. GEJDENSON.
Mr. FAZIO.
Mr. TRAFICANT.
Mr. DURBIN.
Mr. BRYANT.
Mr. WAXMAN.
Mrs. BYRNE.
Mr. RICHARDSON.
Mr. MARKEY.
Ms. ENGLISH of Arizona.
Mr. TORRES.
Mr. BEVILL.

SENATE JOINT RESOLUTION REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 153. Joint resolution to designate the week beginning on November 21, 1993, and ending on November 27, 1993, and the week beginning on November 20, 1994, and ending on November 26, 1994, as "National Family Caregivers Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 178. Joint resolution to proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week"; to the Committee on Post and Civil Service.

S.J. Res. 187. Joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1758. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

H.R. 3724. An act To designate the U.S. courthouse located in Bridgeport, CT, as the "Brien McMahon Federal Building."

H.R. 4568. An Act making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on Housing Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On June 23, 1994:

H.R. 1183. An act to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co.

ADJOURNMENT

Mr. FINGERHUT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 18 minutes a.m.), under its previous order, the House adjourned until Tuesday, June 28, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3247. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3428. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–258, "1425 T Street Co-op Association Equitable Real Property Tax and Assessment Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3429. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–259, "Parental Leave Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3430. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–260, "Pan-Terra Associates Limited Partnership Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3431. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–261, "American Architectural Foundation Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3432. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–262, "Hacker's License Requirements Amendment Act of 1984 Temporary Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3433. A communication from the President of the United States, transmitting a report on arms control treaty compliance by the successor states to the Soviet Union and other nations that are parties to arms control agreements with the United States, as well as by the United States itself, pursuant to 22 U.S.C. 2592; to the Committee on Foreign Affairs.

3434. A letter from the National Council on Radiation Protection and Measurements, transmitting the 1993 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

3435. A letter from the Administrator, Federal Aviation Administration, transmitting the report of progress on developing and certifying the Traffic Alert and Collision Avoidance System [TCAS], pursuant to Public

Law 100–223, section 203(b) (101 Stat. 1518); jointly, to the Committee on Public Works and Transportation and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 4400. A bill to amend title 39, United States Code, to prevent the use of paid confidential informants by the U.S. Postal Service in certain narcotics investigations; to require that the appointment of the inspector general of the U.S. Postal Service be made by the President, with the advice and consent of the Senate; and for other purposes; with amendments (Rept. 103–561, Pt. 1). Ordered to be printed.

Mr. MURTHA: Committee on Appropriations. H.R. 4650. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–562). Referred to the Committee of the Whole House on the State of the Union.

[Submitted June 28 (legislative day, June 27), 1994]

Ms. SLAUGHTER: Committee on Rules. House Resolution 465. Resolution waiving certain points of order against the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–563). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MURTHA:

H.R. 4650. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

By Mr. BRYANT:

H.R. 4651. A bill to require bottled water to meet maximum contaminant levels established under the Safe Drinking Water Act, and for other purposes; to the Committee on Energy and Commerce.

By Ms. FURSE:

H.R. 4652. A bill to establish a Science Start Grant Program, and for other purposes; to the Committee on Education and Labor.

By Mr. GEJDENSON:

H.R. 4653. A bill to settle Indian land claims within the State of Connecticut, and for other purposes; to the Committee on Natural Resources.

By Mr. GREENWOOD:

H.R. 4654. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of drugs approved by the Food and Drug Administration for the treatment of individuals with multiple sclerosis; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MCNULTY (for himself and Mr. BUNNING):

H.R. 4655. A bill to amend the Internal Revenue Code of 1986 to exclude length of service awards to volunteers performing firefighting or prevention services, emergency medical services, or ambulance services from the limitations applicable to certain deferred compensation plans, and for other purposes; to the Committee on Ways and Means.

By Mr. SANTORUM:

H.R. 4656. A bill to make the provisions of title IV of the Trade Act of 1974 applicable to Cambodia; to the Committee on Ways and Means.

By Mr. SANTORUM (for himself, Mr. BLUTE, Mr. BREWSTER, Mr. CAMP, Mr. DELAY, Mr. HAYES, Mr. HERGER, Mr. SHAW, Mr. STENHOLM, and Mr. TALENT):

H.R. 4657. A bill to eliminate certain welfare benefits with respect to fugitive felons and probation and parole violators, and to facilitate sharing of information with police officers; jointly, to the Committees on Energy and Commerce, Ways and Means, Agriculture, and Banking, Finance and Urban Affairs.

By Ms. SHEPHERD (for herself, Mr. WAXMAN, Mr. DURBIN, Mr. SYNAR, Mr. MEEHAN, Mr. BARRETT of Wisconsin, and Mr. HILLIARD):

H.R. 4658. A bill to require the labeling, advertising, and promotion of tobacco products to disclose the additives to and constituents of the products and tobacco smoke, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STUMP:

H.R. 4659. A bill to impose certain requirements on health care liability claims; to the Committee on the Judiciary.

By Mr. MCNULTY (for himself, Mr. FISH, Mr. COYNE, Mr. MCDADE, Mr. MONTGOMERY, Mr. SMITH of New Jersey, Mr. MEEHAN, Mr. KING, Mr. KENNEDY, Mr. WALSH, Mr. RICHARDSON, Mr. APPLEGATE, Mr. ENGEL, Mr. CONYERS, Mrs. LOWEY, Mr. EVANS, and Mr. GILMAN):

H.J. Res. 383. Joint resolution to designate September 13, 1994, as "Commodore John Barry Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

433. By the SPEAKER: Memorial of the General Assembly of the State of Delaware, relative to Federal taxes; to the Committee on the Judiciary.

434. Also, memorial of the Legislature of the State of Missouri, relative to approval of the National Highway System; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GOSS introduced a bill (H.R. 4660) to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Smalley 6808* amphibious dredge; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 488: Mr. ENGEL and Mr. LIPINSKI.

H.R. 1164: Mr. BROWN of Ohio.

H.R. 1182: Mr. JOHNSTON of Florida and Ms. FURSE.

H.R. 1386: Mr. RICHARDSON.

H.R. 2147: Mr. COPPERSMITH.

H.R. 2292: Mr. HAMBURG, Mr. LANCASTER, and Ms. SLAUGHTER.

H.R. 2556: Mr. LIVINGSTON and Mr. PORTER.

H.R. 2708: Mr. SOLOMON and Mr. SLATTERY.

H.R. 2741: Mrs. LOWEY.

H.R. 2959: Mr. YOUNG of Florida.

H.R. 2985: Mr. TORRES.

H.R. 3023: Mr. VOLKMER, Mr. QUILLEN, Mr. ROYCE, Mr. HOYER, Mr. NEAL of Massachusetts, Mr. QUINN, Mr. APPLEGATE, Mr. CRAPO, Mr. FAWELL, Mr. GEKAS, and Mr. DEUTSCH.

H.R. 3044: Ms. CANTWELL.

H.R. 3269: Mr. HOAGLAND, Ms. SLAUGHTER, and Ms. KAPTUR.

H.R. 3290: Mr. ENGEL.

H.R. 3293: Mrs. ROUKEMA.

H.R. 3560: Mr. STUMP.

H.R. 3633: Mr. SCHAEFER, Mr. GALLEGLY, Mr. HUFFINGTON, Mr. SCHIFF, Mr. MOORHEAD, and Mr. ANDREWS of New Jersey.

H.R. 3705: Mr. SHAW.

H.R. 3795: Mr. TORKILDSEN, Mr. ROHRABACHER, Mr. DOOLITTLE, Mr. DORNAN, Mr. SENSENBRENNER, Mr. BEILENSON, and Mr. SCHIFF.

H.R. 3820: Mr. ANDREWS of Maine.

H.R. 3862: Mr. JOHNSON of Georgia.

H.R. 3978: Mr. BOEHNER.

H.R. 4050: Mr. FLAKE.

H.R. 4051: Mrs. MEEK of Florida and Mr. GONZALEZ.

H.R. 4057: Mr. KLEIN, Mr. LINDER, Mr. DICKEY, Mr. BLILEY, Mr. CASTLE, and Mr. SAXTON.

H.R. 4091: Ms. SLAUGHTER.

H.R. 4095: Mr. GOODLATTE and Mr. BUYER.

H.R. 4133: Ms. FURSE.

H.R. 4142: Mr. WAXMAN, Mr. EVANS, Mr. WOLF, Ms. WOOLSEY, and Ms. NORTON.

H.R. 4158: Mr. SOLOMON.

H.R. 4189: Mr. COMBEST.

H.R. 4215: Mr. FISH.

H.R. 4256: Mr. FARR.

H.R. 4260: Mr. DEFAZIO and Mr. WYNN.

H.R. 4280: Mr. EVANS.

H.R. 4345: Mr. TRAFICANT.

H.R. 4375: Mr. BROWN of California and Mr. WAXMAN.

H.R. 4393: Mr. JACOBS and Mr. HUGHES.

H.R. 4395: Mr. FILNER.

H.R. 4530: Mr. SANTORUM.

H.R. 4540: Mr. LAFALCE, Ms. FURSE, Mr. NEAL of North Carolina, Ms. WOOLSEY, Mr. UPTON, Mr. OWENS, Mr. HUGHES, and Mr. MINGE.

H.R. 4557: Ms. SCHENK, Mr. PACKARD, Mr. MCCANDLESS, and Mr. CASTLE.

H.R. 4570: Mrs. THURMAN and Ms. ROYBAL-ALLARD.

H.J. Res. 347: Mr. FISH, Mr. TORRES, Mr. MCCOLLUM, Mr. SKEEN, Mr. RAHALL, Mr. DE LUGO, Mr. BLILEY, Mr. RICHARDSON, Mr. TEJEDA, and Mr. UNDERWOOD.

H.J. Res. 353: Mr. BACHUS of Alabama, Ms. DELAURO, Mr. DARDEN, Mr. ENGEL, Mr. MINGE, and Ms. MOLINARI.

H.J. Res. 374: Mr. FROST, Mrs. THURMAN, Mr. LIGHTFOOT, Mr. WISE, Mr. MARTINEZ, Ms. PRYCE of Ohio, Mr. GREENWOOD, and Ms. DELAURO.

H. Con. Res. 253: Mr. THOMPSON, Mr. DEUTSCH, Mr. SMITH of New Jersey, and Mr. TORRICELLI.

H. Res. 463: Mr. FROST and Mr. TAYLOR of North Carolina.