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House of Representatives

The Reverend Samuel P. Warner, Pastor, First Presbyterian Church, Lumberton, North Carolina, offered the following prayer:

You have entrusted to us, Almighty God, a rich heritage from the past purchased by the lives and sacrifices of those who have gone before us and whose witness testifies to the cost of freedom and the price of peace.

And You have blessed, O Lord, the people of this Republic, from north and south and east and west, each one represented here, with a dream for today and a vision for tomorrow: the vision of a city set on a hill for all to see, and the dream, the dream of a lamp shining brightly in every home, fueled by the promise of ''life, liberty, and the pursuit of happiness.''

Yet binding the sacred story of our common past to the vision and hope of a waiting future is the challenge and opportunity of this one day, this one hour, this present moment in which we live.

And so, Divine Master, help us; help us all, and especially those who labor in this Chamber, to use this day wisely.

Teach us, Good Lord, to listen more eagerly than to speak, to unite more readily than to divide, to forgive more quickly than to condemn.

And pardon, we pray, the shortcomings of those borne by the selfish motives of the few, rather than the needs of the many.

Yet most of all, O God, bestow upon all in leadership and authority the wisdom and courage today ''to do justice, to love kindness, and to walk humbly with You'' so that when this day is done, the toil and labor of the men and women in this House might be worthy of the people of our great land, of those who dreamed and shaped her long ago, and of those who defend her now, asking no honor or reward, save the knowledge that they do Thy Will. Amen.

THE JOURNAL

The SPEAKER. 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. Will the gentleman from North Carolina (Mr. MCINTYRE) come forward and lead the House in the Pledge of Allegiance.

Mr. MCINTYRE 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman from North Carolina (Mr. MCINTYRE) will be recognized for 1 minute. All other 1 minute speeches will be at the end of the day.

RECOGNITION OF AND TRIBUTE TO THE REVEREND SAMUEL P. WARNER, PASTOR, FIRST PRESBYTERIAN CHURCH, LUMBERTON, NORTH CAROLINA

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

Mr. MCINTYRE. Mr. Speaker, I rise to recognize and pay tribute to the man who just delivered our invocation, Samuel P. Warner, my pastor and my friend, from Lumberton, North Carolina.

Sam Warner is a man of character, courage and commitment. His character is that of unblemished integrity, always holding fast to those truths of love, loyalty, self-sacrifice and service in both his personal and professional life.

His courage is shown by his willingness to change traditions when they become too routine and to challenge us all to become and to do not that which is merely convenient or comfortable, but rather what God calls us to become. His taking stands for righteousness and truth in a world of corrupting influences and compromising attitudes is his hallmark of courageous leadership.

His commitment is unfailing and unselfish. With compassion, patience, empathy and understanding, Sam Warner has helped innumerable individuals rebuild their lives, restore their confidence and renew their hope. He works constantly for the betterment not only of himself and his church, but also for his community and his society as well.

A graduate of both Duke University and Union Theological Seminary in Virginia, Sam Warner is also a devoted husband, and today we have with us his wife, Mary. He is also a devoted father, and we have his children, Grace and Jay, all of whom are with us in the gallery with my wife, Dee.

It is with great honor that I recognize this man of God, Pastor Samuel P. Warner of the First Presbyterian Church of Lumberton, North Carolina, and his exemplary life, that you have seen a part of today, his character, his courage and his commitment.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, May 2, 2002, the House will stand in recess subject to the call of the Chair to receive the former Members of Congress.

Accordingly (at 9 o'clock and 6 minutes a.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The Speaker of the House presided.

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The SPEAKER. On behalf of the House of Representatives, it gives me great pleasure to welcome to the Chamber today the former Members of Congress for their annual meeting. Of course, many of you are personal friends from both sides of the aisle, and it is important that you are here to renew those friendships.

As the report from your President will indicate, you honor this House and the Nation by continuing your efforts to export the concept of representative democracy to countries all over the world and to college campuses and universities throughout this Nation. I endorse those efforts and I ask for their continuation.

Later today we will honor the memory of a past recipient of your Distinguished Service Award, the former Chaplain Jim Ford, and at 2 p.m. a memorial service will be held in HC–5 to which you are all invited.

I especially endorse your wise choice of former Speaker and Ambassador Tom Foley as this year's recipient of the Distinguished Service Award. Speaker Foley served this House with grace and dignity, and I am honored to be here today to help recognize that service.

At this time I would request my friend, the gentleman from Idaho, Mr. LaRocco, the vice president of the Former Members Association, to take the chair.

Mr. LAROCCO (presiding). The Chair recognizes the gentleman from Texas (Mr. FROST).

Mr. FROST. Thank you, Mr. Chairman.

On behalf of the Democratic Caucus, I would like to welcome all of you. It is good to see many of you I served with, and some of you I did not. You will be welcomed, I believe, in a few minutes also by the current majority leader, Mr. ARMEY, who will be a former Member next year. Mr. ARMEY is not running for reelection.

The work that you do on college campuses I think is particularly important. I know a number of you have devoted a great deal of time to that. I was just with former Speaker Jim Wright this last weekend, who teaches a course at TCU in Fort Worth; and each year he keeps saying he is not going to do it again. But I asked him is he going to go back next fall, and he said, yes, he is. I can tell you, I am one of his guest lecturers. He lets me come in and speak to one of his classes once a year. I have gotten some very good former students of his working on my staff both in Washington and in my Texas office. So I want to encourage all of you to continue to do this.

I know our former colleague, Dan Glickman, is taking this to the extreme. He will be at Harvard 4 days a week starting in August, and maybe some of us will come up and visit Dan in that capacity.

Again, I want to thank you for the work you do when called upon to help us in the House of Representatives. Former Speaker Foley, as well as some other former Members, is currently working on a task force that CHRIS COX and I will chair dealing with the question of what happens if the unthinkable should occur and that there would be a disaster in which a large number of Members of Congress would be killed all at one time and how would the government continue. We hope that never happens, of course. But having the guidance of former Members, particularly former Speakers, is very helpful as we contemplate how the country would continue in the event that occurred.

Again, I want to greet all of you and welcome you here. It is good to see so many of you. I know you will have a great day here. All of the current Members value your help, value your knowledge and your experience and guidance for us. Thank you very much.

Mr. LAROCCO. Are there other Members of the House leadership that wish to be recognized?

If not, the Clerk will now call the roll of former Members of Congress.

The Clerk called the roll of the former Members of Congress, and the following former Members answered to their names:

ROLLCALL OF FORMER MEMBERS OF CONGRESS ATTENDING 32ND ANNUAL SPRING MEETING, MAY 9, 2002

THE UNITED STATES ASSOCIATION OF FORMER MEMBERS OF CONGRESS

Bill Barrett (Nebraska);
J. Glenn Beall (Maryland);
Tom Bevill (Alabama);
Donald G. Brotzman (Colorado);
Jack Buechner (Missouri);
James T. Broyhill (North Carolina);
William F. Clinger (Pennsylvania);
Norman E. D'Amours (New Hampshire);
John Erienborn (Illinois);
Thomas W. Ewing (Illinois);
Thomas S. Foley (Washington);
Louis Frey, Jr. (Florida);
Dan Glickman (Kansas);
Robert P. Hanrahan (Illinois);
Ralph R. Harding (Idaho);
Dennis Hertel (Michigan);
George Hochbrueckner (New York);
Marjorie Sewell Holt (Maryland);
William J. Hughes (New Jersey);
David S. King (Utah);
Ernest Konnyu (California);
Peter N. Kyros (Maine);
Larry LaRocco (Idaho);
Norman F. Lent (New York);
Jim Lloyd (California);
Cathy Long (Louisiana);
C. Thomas McMillen (Maryland);
Lloyd Meeds (Washington);
Robert H. Michel (Illinois);
Clarence Miller (Ohio);
John S. Monagan (Connecticut);
Jim Moody (Wisconsin);
Stanford E. Parris (Virginia);
John J. Rhodes (Arizona);
John J. Rhodes, III (Arizona);
George E. Sangmeister (Illinois);
Ronald A. Sarasin (Connecticut);
Bill Sarpalius (Texas);
David E. Skaggs (Colorado);
James W. Symington (Missouri);
Harold Volkmer (Missouri);
Charles W. Whalen, Jr. (Ohio);
Harris Wofford (Pennsylvania);
Samuel H. Young (Illinois);
Roger G. Zion (Indiana);
John Buchanan (Alabama);
Howard Pollock (Alaska);
Peter Hoagland (Nebraska);
William Carney (New York);
Kikidula Garza (Texas);
Robin Tallon (South Carolina);
Glen Browder (Alabama);
Bob McEwen (Ohio);
Tony Roth (Wisconsin);
Bob Garcia (New York);
Jay Johnson (Wisconsin);
G.V. ''Sonny'' Montgomery (Mississippi);
Bill Alexander (Arkansas).

Mr. LAROCCO. At this time the Chair recognizes the gentleman from Illinois, the Honorable John Erlenborn, President of our Association.

Mr. ERLENBORN. My thanks to our Speaker pro tem and all of you for being with us this morning. We are especially grateful to the Speaker, DENNIS HASTERT, for taking time from his busy schedule to greet us, and to MARTIN FROST for his warm welcome.

It is always a privilege to return to this institution, which we revere and where we shared so many memorable experiences. Service in Congress is both a joy and a heavy responsibility, and, whatever our party affiliation, we have great admiration for those who continue to serve our country in this place. We thank them all for once again giving us this opportunity to report on the activities of our Association of former Members of Congress.

This is our 32nd Annual Report to Congress, and I ask unanimous consent that all Members be permitted to revise and extend their remarks.

Mr. LAROCCO. Without objection, so ordered.

Mr. ERLENBORN. Our Association is nonpartisan. To sort of prove that, I would call your attention to the fact that a year ago when I was making this report, I spoke from the other side of the aisle. I wanted to be even-handed, so today I am back on the Republican side of the aisle. We have no partisanship in the Association.

Our Association is nonpartisan. It has been chartered, but not funded, by the Congress. We have a wide variety of domestic and international programs, which several other Members and I will discuss briefly this morning. Our membership numbers approximately 550, and our purpose is to continue in some small measure the service to this country that we began during our terms in the Senate and House of Representatives.

Our most significant domestic activity is our Congress to Campus Program. This is an effort on a bipartisan basis to share with college students throughout the country our insights into the workings of the U.S. Congress and the political process more generally.

A team of former Members, one Republican, one Democrat, spend up to 2.5

days on college campuses throughout the United States, meeting formally and informally with students, but also members of the faculty and local community. This is a great experience for our members, but our primary goal is to generate a deeper appreciation for our democratic form of government and the need to participate actively.

Since the program's inception in 1976, 129 former Members of Congress have reached more than 150,000 students through 281 visits to 192 campuses in 49 States and the District of Columbia. In recent years, we have conducted the program jointly with the Stennis Center for Public Service at Mississippi State University. The former Members donate their time to this program. The Stennis Center pays our transportation costs and the host institution provides room and board.

At this point, I would like to yield to a colleague, Bill Carney, the gentleman from New York, to discuss his participation in the Congress to Campus Program.

Mr. LAROCCO. The gentleman from New York is recognized.

Mr. CARNEY. Thank you, Mr. Speaker.

Mr. Speaker, as John said, recently I had the pleasure of participating in the Congress to Campus Program with my friend and colleague, the gentleman from Arkansas, Mr. Beryl Anthony. We traveled to the Tar Heel State to visit two of the finest education facilities in North Carolina, Cape Fear Community College and the University of North Carolina at Wilmington.

This visit was facilitated by another colleague of ours, the gentleman from North Carolina, Mr. Martin Lancaster, who serves as the President of the North Carolina Community College System. I now have the honor of reporting to you on this trip on both behalf of myself and Mr. Anthony, as he has personal business to attend to today.

One could judge the success of the Congress to Campus Program by many measures, the least of which should be the personal benefit and satisfaction of the Members participating. At the start of our trip, Mr. Anthony and I shared uncertain expectations. We presumed that we were to impart our knowledge and experience upon the students. What was truly amazing was how much we took away from this opportunity.

At both of the institutions we had the occasion to meet with students, faculty and the boards of trustees. There were many things that impressed us. We interacted with the students in numerous forums, including many classes. The reception from the students was courteous and inquisitive. Beryl and I consistently offered different viewpoints. During our point-counterpoint presentations the students were engaged and demonstrated an incredible grasp of the topics.

The Boards of Trustees and faculties' commitment to the students left us with a renewed confidence in our educational system. Equally impressive was the local citizens' commitment to the students at both schools, as demonstrated by their generosity to the institutions and to individuals through the scholarship programs.

For the first time the itinerary included activities at both a community college and a university. The contrast demonstrated the distinct and vital contributions each institution provides to the students and their community. The contributions of the university system have long been acknowledged. The community college offers our youths the skills and training to be the future captains of our fishing fleets, dental hygienists to care for our teeth, registered nurses, licensed plumbers and electricians, as well as enabling students to earn credits to a full Bachelor's Degree.

There were many people instrumental to the success of this program, and I would like to take a moment to recognize and salute the great work of a few.

The professionalism and commitment of Dr. Eric McKeithan, President of Cape Fear Community College, and Chancellor James Leutzi of the University of North Carolina at Wilmington is evident in the success at both schools. Ms. Allison Rankin, the Associate Dean for Business, Industry and Government at Cape Fear Community College also deserves our utmost appreciation, as does Dr. Walt DeVries of the Institute of Political Leadership at the University.

I must close by strongly commending this worthwhile program to my colleagues and encourage all former Members presented with an opportunity to participate in the Congress to Campus Program to do so.

Mr. Speaker, I yield back.

Mr. ERLENBORN. Thank you, Bill.

One outgrowth of the Congress to Campus Program was the interest in producing a book that would take an inside look at Congress from different viewpoints. There are many fine books written by individual Members of Congress, but, to our knowledge, there was no compendium that goes behind the scenes in a very personal way. So, a past President of the Association, Lou Frey, recruited 34 Members, a Congressional spouse, two former Congressional staff members and a former member of the Canadian Parliament, to write chapters for a book on Congress.

Lou and the head of the Political Science Department at Colgate University, Professor Michael Hayes, co-edited the book, ''Inside the House: Former Members Reveal How Congress Really Works,'' which was published in March 2001. The book has been very well received and already is in its third printing. We hope that you and others will find it interesting and informative. Lou will tell you more about the book a bit later.

Mr. Speaker, behind the events we organize in the United States, the Association is very active in sponsoring programs that are international in scope. Over the years, we have gained considerable experience in fostering interaction between the leaders of the other nations and the United States. We have arranged more than 445 special events at the U.S. Capitol for international delegations from 85 countries and the European Parliament, programmed short-term visits for individual members of parliaments and the long-term visits for parliamentary staff, hosted 48 policy seminars in nine countries involving more than 1,500 former and current parliamentarians, and conducted 19 study tours abroad for former Members of Congress.

The Association serves as the Secretariat for the Congressional Study Group on Germany, the largest and most active exchange program between the U.S. Congress and the Parliament of another country. Founded in 1987 in the House and 1988 in the Senate, it is a bipartisan group involving 180 Representatives and Senators. They are afforded the opportunity to meet with their counterparts in the German Bundestag to enhance understanding and greater cooperation.

Ongoing study group activities include conducting a Distinguished Visitors Program at the U.S. Capitol for guests from Germany; sponsoring annual seminars involving Members of Congress and the Bundestag; providing information to participants in the Congress-Bundestag Youth Exchange Program to appropriate Members of Congress; and arranging for members of the Bundestag to visit Congressional districts with Members of Congress.

New activities are being explored to enhance these opportunities. The Congressional Study Group on Germany is funded primarily by the German Marshall Fund of the United States. Additional funding to assist with administrative expenses also has been received from nine corporations, whose representatives now serve as the Business Advisory Council to the Study Group, which is chaired by former Member Tom Coleman who served as the Chairman of the Study Group in the House in 1989.

I would now like to yield to the gentleman from Idaho, Larry LaRocco, to report on the activities of the Congressional Study Group on Germany and the 19th Annual Congress-Bundestag Seminar held in Galveston, Texas. This year's Chairman of the Study Group in the House, NICK LAMPSON, was the host, and we were there from March 24 to March 29. Mr. LaRocco.

Mr. LAROCCO. Mr. President, it gives me great pleasure to report on the activities of the Congressional Study Group on Germany. The Study Group has established itself as the most productive means of communication between the U.S. Congress and the German Bundestag. It was founded nearly 20 years ago to give Members of Congress the opportunity to have in-depth and focused discussions with their German counterparts.

This Congressional session, a record 180 Members of Congress belonged to the Congressional Study Group on Germany, 36 Senators and 144 Members of the House. The Study Group facilitates this vital dialogue with one of our most NATO allies and trade partners in many ways.

The most visible activity of the group is its Distinguished Visitors Program, which brings high-ranking German elected officials to Capitol Hill to meet with members of the group. Just last week, the Study Group hosted Minister Joschka Fischer, Germany's Federal Minister of Foreign Affairs and Vice Chancellor of the Federal Republic of Germany.

Another high-profile event hosted and organized by the Congressional Study Group on Germany is its annual seminar. Every year the Study Group brings Members of Congress together with German legislators for 4 days of focused discussion on a predetermined agenda. The parliamentarians usually are joined by several former Members, officials of the two federal governments, think-tank and foundation representatives and members of the German-American corporate community.

This year's meeting, the 19th seminar we have organized, was held in the district of the Study Group's 2002 House Chairman, Representative NICK LAMPSON, in Galveston, Texas. During the last week of May, almost 60 seminar participants met to have discussions about child custody disputes between the two countries, the upcoming elections in Germany and the United States, the war against terrorism, and international trade. Our discussions were frank and open-minded. We agreed to disagree on some issues, and we even discussed steel quotas. We found common ground where we expected disputes, for example, when the discussion turned to Saddam Hussein and Iraq.

In addition to the four rounds of discussion, the Study Group arranged a very impressive program of additional meetings. We were able to tour a BASF facility which had just opened earlier this year and is a marvel of new technology in the chemical production field. We also enjoyed an outstanding afternoon at the University of Texas Medical Branch, where we had a very impressive demonstration about telemedicine and its application in the care of patients who are geographically far removed from the nearest medical facility. The staff at the University of Texas also prepared for us a very educational and sometimes chilling presentation on bioterrorism and a global response to a terrorist act.

The highlight of the trip, however, was a behind-the-scenes tour of NASA's Johnson Space Center in Houston. We received quite an education from NASA astronauts and engineers, and were able to visit some of the training facilities, both for the Space Shuttle and the International Space Station. For me, personally, the trip was even more rewarding, since I was able to visit with Barbara Morgan, a friend and former constituent who is training at NASA to be the next teacher in space. It may not have been a coincidence that shortly after our visit to NASA, the administration announced that Barbara will participate in one of the next scheduled launches, I believe in 2004.

The seminar in Galveston was an outstanding means of accomplishing the goals of the Congressional Study Group on Germany. Legislators from the two countries were able to become acquainted on a very personal level, to have focused and in-depth discussions on some very important issues, and were educated by other seminar participants on some of the nuances that shape U.S.-German relations. It truly was one of the best foreign policy-oriented events I have ever witnessed, and I think the Study Group furnishes sitting Members with a tremendously important service.

A report about the activities of the Congressional Study Group on Germany would be incomplete without thanking its financial supporters. First and foremost, one needs to thank Craig Kennedy and the German Marshall Fund of the United States, since without him and his foundation the Study Group could not function at its present level of activity.

Also one must not forget former Member Tom Coleman of Missouri, who chairs the Business Advisory Council to the Study Group. His tireless efforts have raised much-needed funds to support the administrative side of the Study Group. He has put together a group of companies that deserve our gratitude for giving their aid and support to the organization. They are BASF, DaimlerChrysler, Deutsche Telekom, J.P. Morgan Chase, SAP, Volkswagen, and the group's two newest members, Lockheed Martin and Fireman's Fund/Allianz Group.

The Congressional Study Group on Germany is an excellent example of how the Former Members Association can provide a service to current Members that is unequaled in Washington and is one of the utmost importance to the foreign relations of this country. I think the former Members can be very proud of the work they do to make this group possible, and I look forward to being an active participant in the activities of the Congressional Study Group on Germany for many years to come.

Thank you, Mr. President.

Mr. ERLENBORN. The Association also serves as the Secretariat for the Congressional Study Group on Japan. Founded in 1993 in cooperation with the East-West Center in Hawaii, it is a bipartisan group of 86 Members of the House and Senate, with an additional 49 Members having asked to be kept informed of the Study Group activities.

In addition to providing substantive opportunities for Members of Congress to meet with their counterparts in the Japanese Diet, the Study Group arranges monthly briefings when Congress is in session for Members to hear from American and Japanese experts about various aspects of the U.S.-Japan relationship. The Congressional Study Group on Japan is funded primarily by the Japan-U.S. Friendship Commission.

In 1999, the Association began a parliamentary exchange program with the People's Republic of China. In October of that year, with funding from the U.S. Information Agency, the Association hosted a delegation of nine members of the National People's Congress of China in Washington. This program marked the inauguration of the U.S.-China Inter-Parliamentary Exchange Group, whose members were appointed by the Speaker. The visit included in-depth discussions between members of the two Congresses as well as meetings by members of the Chinese delegation and high level Executive Branch representatives, academics and business representatives.

In 2000, the Association received a grant from the Department of State to continue this exchange program by arranging a visit to China by members of the Exchange Group. The trip to China originally was scheduled to take place in August 2001, but was postponed in December because of the EP–3 incident. Unfortunately because of the September 11 terrorist attacks, Congress still was in session in December, so the trip had to be postponed until early January 2002. When it did occur, because it was the first visit to China by a Congressional delegation since September 11, the delegation was treated with extraordinary hospitality by the Chinese, who continuously emphasized the importance of a sound bilateral relationship between China and the United States.

I was hoping to call on the gentlewoman from Maryland, Beverly Byron, who participated in this fascinating trip to tell you about it. Unfortunately, Bev is unable to be with us this morning, so has asked me to give the report on her behalf about the trip, the forthcoming visit in June by a delegation of members of the National People's Congress of China and the initiation of the Congressional Study Group on China.

Representative DONALD MANZULLO of Illinois, Chairman of the U.S.-China Inter-Parliamentary Exchange Group and the Congressional Study Group on China, led the delegation to Beijing and Shanghai from January 5 to January 12 at the invitation of the Foreign Affairs Committee of the National People's Congress of China.

In addition to Beverly, the delegation consisted of former Congressman Beau Boulter from Texas, who was in China on other business and who joined in the delegation's discussions; the Association's Executive Director, Linda Reed; Wayne Morrison, a Specialist in International Trade and Finance at the Congressional Research Service; and two of Congressman MANZULLO's staff members, Jennifer Osika and Matt

Szymanski. The delegation was joined in Shanghai by Congressman TOM LANTOS of California.

Because all but one of the five members of the National People's Congress who attended the sessions in Beijing also had participated in the initial exchange in Washington in October of 1999, there was a camaraderie that allowed an open discussion and give-and-take dialogue of issues that included trade, China's accession to the World Trade Organization, the fight against terrorism, religious freedom, human rights and Taiwan.

The importance placed by the Chinese on the relationship with the United States further was indicated by the meeting the delegation had with President Jiang Zemin, which lasted 1 hour and 25 minutes, well beyond the allotted time. The session was informal, with much jovial bantering between the President and the delegation members, as well as discussion about substantive issues. In the end, President Jiang said he had enjoyed the visit very much.

Additional high-level meetings in Beijing were held with NPC Chairman Li Peng and the First Minister of the Ministry of Foreign Trade and Economic Cooperation. In Shanghai, the delegation met with: The Acting Mayor; Members of the Shanghai Municipal People's Congress; the Chairman of the Shanghai WTO Affairs Consultation Center; the Deputy Chief Commissioner of the Shanghai Pudong New Area People's Government; and foreign policy experts at the Shanghai Institute of International Studies. In addition, they had an unexpectedly frank and stimulating meeting with students in the U.S. Congressional Studies Program at Fudan University, which proved to be one of the highlights of the visit.

Although the delegation was small, all reports received from staff at the U.S. Embassy in Beijing and the U.S. Consulate General in Shanghai afterward indicated that the visit had a very positive effect on U.S.-China relations. As the delegation's Control Officer in Beijing wrote, ''In terms of substance, at least in Beijing, CODEL MANZULLO's leadership meetings were the most positive I have been in. I think Congressman MANZULLO set a tone for enhanced cooperation that has helped pave the way for the recent dissident releases and, more broadly, a successful upcoming visit by President Bush.''

The delegation's Control Office in Shanghai wrote, ''I think your trip did do its part in advancing the relationship. I defer to Beijing on what transpired there, but you left a mark, especially at Fudan University, and in Shanghai as well. The visit to Fudan seems to have been a small hit, due in no small part to the Members' ability to connect with the students.''

A second visit to Washington, D.C., will be made by a delegation of Members of the National People's Congress from June 4 to June 9, 2002, so this important dialogue between U.S. and Chinese legislators can be continued to further strengthen the U.S.-China relationship.

There will be sessions with Members of Congress and meetings with Executive Branch representatives, including, hopefully, President Bush. The Association recently submitted a proposal to the Department of State requesting funding to send a delegation of Members of Congress to China for a second visit in the summer of 2003 as the next step in this interchange process.

These annual visits will be continued, but the Congressional leaders of the U.S.-China Inter-Parliamentary Exchange Group believe they should not be the sole source of information regarding U.S.-China relations. Therefore, the Association received funding from the Boeing Company to initiate the Congressional Study Group on China in July 2001 to facilitate and augment the official Congressional exchange program by offering opportunities for ongoing communication about vital aspects of this relationship.

Currently, the Study Group is composed of 65 Members of the House, although it may be expanded to include Senators as well at a later date. Modeled after the Association's highly successful Congressional Study Groups on Germany and Japan, this Study Group will hold monthly meetings while Congress is in session so that its members may meet with U.S. and Chinese experts to be briefed about and discuss key issues of a concern to both countries. The Study Group most recently hosted a luncheon meeting with Deputy U.S. Trade Representative Jon Huntsman to talk about China's ability to comply with WTO regulations.

Moving to another part of the world, the U.S. Congress and the Congress of Mexico have been conducting annual seminars for 41 years under the auspices of the U.S.-Mexico Inter-Parliamentary Group. However, there is little interaction between legislators from these two countries during the rest of the year. The Association is in the process of initiating a Congressional Study Group on Mexico with funding from the Tinker Foundation so that Members of Congress can meet on a regular basis with visiting Mexican dignitaries and other experts about various aspects of the important U.S.-Mexico relationship. It is anticipated that the initial meeting of the Study Group will be a session with the current Mexican Ambassador to the United States, His Excellency Juan Jose Bremer, in June or July.

In the aftermath of political changes in Europe, the Association began a series of programs in 1989 to assist the emerging democracies of Central and Eastern Europe. With funding from the U.S. Information Agency the Association sent bipartisan teams of former Members of Congress, accompanied by either a Congressional or country expert, to the Czech Republic, Slovakia, Hungary and Poland for up to 2 weeks.

They conducted workshops and provided instruction on legislative issues for new Members of Parliament, their staffs and other persons involved in the legislative process. They also made public appearances to discuss the American political process. In addition, the Association brought delegations of Members of Parliament from those countries to the United States for 2-week visits.

Also, with funding from USIA, the Association sent a technical adviser to the Hungarian Parliament from 1991 to 1993. With financial support from the Pew Charitable Trusts in 1994, the Association assigned technical advisers to the Slovak and Ukrainian Parliaments. This initial support was supplemented by other grants to enable the Congressional Fellows to extend their stays.

From 1995 through 2000, with funding from the U.S. Agency for International Development and the Eurasia Foundation, the Association managed a highly successful program that placed outstanding Ukrainian students in internships with committees, legislative support offices and leadership offices of the Parliament of Ukraine. This program met not only the Parliament's short-term need of having well-educated, motivated, professionally trained staff to conduct its current legislative work effectively, but also the longer term need to develop a cadre of trained professionals. Former Members of Congress visited Ukraine from time to time to assist with these efforts by meeting with the students involved in the program as well as with Ukrainian government leaders.

At the end of the year 2000, the Association turned over the administration of the program to local Ukrainian management to ensure its long-term viability. The Ukrainian program proved to be an excellent pilot that was worth replication in other emerging democracies, particularly in the Central/East European and other areas.

In late 1999 and early 2000, under a grant from the National Democratic Institute for International Affairs, with funding from the Agency for International Development, the Association sent a Congressional staff member to Macedonia for 6 months. They selected university students and recent graduates in that country and trained them to provide research and drafting services for the Members of Parliament who lacked such resources. A young Macedonian lawyer worked with our Congressional Fellow and assumed the management of the program upon his return to the United States. I was privileged to have traveled to Macedonia in January of 2000 to confer with the Members of the Macedonian Parliament concerning the intern program that we had established for them.

I believe that one of the most important programs the Association has undertaken is providing help to emerging democracies, especially their parliaments. The transition from the old

ways to democratic governments is a basic test of the success of the newly emerging democracies. Similar problems are being faced by all of them, with varying success. I believe the intern projects that we have initiated are necessary to help the legislatures transition to independent and meaningful roles if the voice of the people is to be heard, as it must in a democracy.

The U.S. Association of Former Members of Congress is uniquely qualified to provide the resources for the education of the legislators in the emerging democracies. Former Members have experience in State legislatures and the Congress. We cannot expect other countries to adopt our ways, but we can help them identify the basic elements of a free, representative government.

The Association also has been interested in assisting with U.S.-Cuban relations. In December 1996, we sent a delegation of current and former Members of Congress to Cuba on a study mission to assess the situation there and analyze the effectiveness of U.S. policies toward Cuba. Upon its return, the delegation wrote a report of its findings, which was widely disseminated through the media and made available to Members of Congress as well as to personnel in the Executive Branch.

The Association organizes study tours for its Members and their spouses who at their own expense have participated in educational and cultural experiences in Australia, Canada, China, New Zealand, the former Soviet Union, Vietnam, Western and Eastern Europe, the Middle East and South America.

In September 2001, we arranged a study tour to Turkey, which included visits to Istanbul, Ankara, Izmir and Ephesus, with an optional cruise along the southern coast at the end.

I would now like to yield to the gentleman from New York, Norm Lent, who led the trip with the gentleman from Pennsylvania, Dick Schulze, to report on the visit to Turkey and its historical end.

Mr. LENT. I thank the gentleman for yielding. I will try to be as brief as I can.

Ladies and gentlemen, from September 1 through September 8, Dick Schulze and I led this delegation of 20 Association members and spouses on the Association's study tour of Turkey. In Istanbul, historic sites were visited, such as the Blue Mosque and the Dolmabahce Palace, and so forth. Our three nights in Istanbul were spent in a beautiful hotel overlooking the Bosphorus.

We were briefed on the current economic situation in Turkey by a number of Turkish businessmen, including the Vice Chairman of the Turkish-U.S. Business Council. Our meeting with the Vice Chairman was arranged with the assistance of our colleague Bob Livingston and his staff.

We next flew to Ankara, Turkey's capital, where participants were hosted by the then Undersecretary of the Foreign Ministry, Faruk Logoglu, who is now here in Washington, D.C., stationed as the Turkish Ambassador to the United States.

After a meeting at the Eurasia Strategic Research Center, a briefing and reception were hosted for our delegation by U.S. Ambassador to Turkey, W. Robert Pearson, at his beautiful residence. The briefing gave delegation members some excellent insights into the U.S. relationship with our strategic ally, Turkey. The reception provided a, I might say, delightful opportunity to meet many of the Turkish political leaders, including the President of the Turkish Parliamentarians Union and the Foundation of Turkish Parliamentarians, which is our Association's counterpart organization in Turkey.

One of our members, Dick Nichols, turned out to be an extremely talented piano player, and he was joined by Dick Schulze's wife, soprano Nancy Schulze, and, with her beautiful voice, led everyone in a very moving rendition of God Bless America.

The next day included a briefing at the Foreign Ministry and a meeting with the Chairman of the Foreign Affairs Committee of the Grand National Assembly of Turkey at the Parliament Building. For arranging these exceptional opportunities, special thanks are extended to our former late colleague, Gerald Solomon, and his staff, and the staff at the Turkish Embassy in Washington.

Our next stop was the City of Izmir, from where a day trip was made to the impressive ancient City of Ephesus. From Izmir, some our participants departed to return back to the United States, but 12 members of the delegation continued to enjoy a 3-day Blue Voyage Cruise on a gulette, or yacht, which was an incredibly relaxing journey through the beautiful coves of the Aegean Sea along the southern coast of Turkey.

The last port of call was Fethiye, which was reached late afternoon, September 11, 2001. These 12 members of the delegation learned of the horrendous terrorist attacks on the New York World Trade Center and the Pentagon while on board a private bus traveling from our last port of call at Fethiye to the Turkish home of our colleague Steve Solarz and his wife Nina.

Needless to say, everyone that night was in a state of shock. Our farewell dinner at the beautiful Solarz residence overlooking the Aegean Sea, which was to have been a joyous, festive affair, was a greatly subdued affair with much intensive discussion and a prayer led by Steve Solarz.

Our delegation flew to Istanbul the following day and proceeded to spend the next several days trying to find ways to return home, as all airline flights, you recall, had been canceled. We split up into several groups. Everyone, of course, finally made it home successfully, their sadness I might add somewhat assuaged by the genuine outpouring of sympathy received from many Turkish citizens who passed us by on the street, who saw us in the corridors of the hotels or elsewhere, who recognized us as Americans and stopped to express their condolences and their outrage at what had happened to this country.

The trip was greatly enhanced, I might add, by the hard work, attention to detail, kindness and patience of our Executive Director, Linda Reed, who accompanied us. She is here with us this morning, who did an absolutely outstanding job for us and is a credit, a genuine credit, to our Association. Linda, thank you for being with us this morning.

Even though the trip ended with the tragedy of 9/11, Turkey will long be remembered by all participants as an incredibly majestic country of very warm, gracious people that must be revisited.

I yield back the balance of my time.

Mr. LAROCCO. The Chair would ask the gentleman from Illinois to suspend for a minute while the Chair recognizes the gentleman from Texas, the distinguished majority leader, for remarks.

Mr. ARMEY. I thank the gentleman from Illinois for yielding time. I thank the Chair for recognizing me. I will not take much time. I really do hate to interrupt your proceedings, but I cannot resist saying youth must be served.

Actually I thought that was funnier than that. Thank you. But, at any rate, I have very little time left in my life to lay claim to that privilege, so I hope you will bear with me today.

I walked in this morning and saw all you gathered, and I was reflecting on the fact some of you may have noticed I too am soon to be a retired Member of Congress, and many of these days now as I walk these halls and sit in this Chamber, I find myself with the affliction of nostalgia, remembering times.

I remember the time Jamie Whitten beat me soundly. I think I got 35 votes for an amendment against one of Jamie's bills. I rushed over to the chairman, and I said, ''Now, that will teach you to fool with me.'' So these sort of nostalgic remembrances of the moments we have had together have sort of plagued me. I am sure you remember those in your retiring days.

But as I walked in here today, I noticed I just created a new emotion I want to share with you. I am going to label it ''prestalgia.'' So I will soon now be joining you.

As I watch you here this morning, I also see in your work and your presence here a lesson of pride that I am just learning, the pride of knowing that I was once a Member of this great body, the United States House of Representatives, a body that I personally believe and have believed for some time is the single most unique institution of democracy in the history of the world.

What a privilege we have had to be a part of this body. It is no wonder you come back and just enjoy these times of nostalgia, when we can remember

where we are, and what I also learned here, continue our work as former Members.

I look forward to joining you in just a few short months. I hope you will treat me as well as a member of this Association as you treated me when we served together in this body. It has always been my great privilege, and I hope I have never done anything to embarrass you.

Thank you.

Mr. ERLENBORN. Thank you, Congressman Armey.

Mr. Speaker, as you can see, the Association conducts a wide variety of programs and is continuing to expand them. All of this requires financial support. At present our funding comes from three primary sources, program grants, membership dues and an annual fund-raising dinner and auction.

On March 5 of this year we held our 5th annual Statesman Award Dinner, at which our friend and colleague, Vice President DICK CHENEY, was honored. We presented DICK with the Statesmanship Award in recognition of his service as a Member of Congress, as the current Vice President of the United States and his other many outstanding achievements.

I would like to thank the gentleman from Florida, Lou Frey, who provided the leadership that helped us make our first five dinners so successful, and to yield to him to report on this year's dinner, our plans for next year, and any additional comments he would like to make about the Association's book, Inside the House, which was mentioned earlier.

Mr. FREY. Thank you, Mr. President, and thank you for your leadership over the past 2 years.

I am pleased to report that we did hold a successful dinner on the 5th of March, and we have one of the previous recipients, former Member and Secretary of Agriculture, Dan Glickman, here. We had given the award previously to Lee Hamilton, Lynn Martin and Norm Mineta.

We sold over 450 tickets for the dinner. The Vice President actually came early, out of hiding, and he was there, shook hands for about a half-hour, 45 minutes, made a nice speech. I did get a kick out of, for those of you who were not there, one line. He pointed to us and said, ''You know, we all know a lot, we have been around a lot, but there is one thing I want to remind you: If someone important asks you to head a search committee, do it.'' I guess he came out pretty well doing that.

The dinner is unique. We have a Congressional and a presidential auction and our colleague Jimmy Hayes does that as an a vocation. He spends a year collecting all the different things for us for the auction. It is really some wonderful things that we have at the auction. Of course, we have a live auction, where Larry LaRocco and Jimmy Hayes run it. They both talk so fast, but it seems to work. We keep selling things at the live auction, so we are going to continue that.

We get items other than presidential donated for the live auction, such as a 3-night stay at the beautiful Adare Manor Hotel and Golf Club in Adare, Ireland, given by owners Thomas and Judy Kane and arranged by our colleague Margaret Heckler. Jimmy Symington gives us four tickets to a Redskins game, and now that they have a coach from Florida, you have to watch those Redskins. And Bob Carr helped to get us some first class American Airline tickets. So everybody really pitches in to make the dinner a success.

This is our only fund-raising dinner of the year. It goes for the general purposes of the program and the Congress to Campus Program. I want to report that we have at the present time netted over $100,000, and I hope it will be a little more from the dinner. So thanks to all the Executive Committee and the people that helped on that, to Barbara Boggs and to Linda Reed. A special thanks to Verizon, who has been one of our sponsors, and also to our new sponsor, Lockheed Martin.

It is a team effort, a lot of hard work, that paid off. Next year it will be held, we hope, on the 5th of March. We have extended the opportunity for the Secretary of Defense, our former colleague, Don Rumsfeld, to come by. So with John's help and Bob Michel's help on that, I hope we can get ''Rummy'' to come by and accept the award.

Just one brief thing about the book. It is a good book. It is really fun to read. It is an interesting book. I have taught from it at the University of Central Florida. I know it is being used in Monterey. I think Glen is using it out at the War College. I think the University of Kentucky is using it. I know Colgate is using it.

We have had some good reviews on C–SPAN. They covered it pretty well. But what we really need is for each of you, number one, to buy a book or two. Do not be so cheap. It helps everybody. Funding goes back to the Association.

Secondly, what we need you to do is to talk to the people in your old area. I have done talks at the library, at the clubs and so forth, at the schools. It is really a fun thing to do, and people like the book. Buy a couple of copies. Send it to your old school or high school and get it out there. A lot of work has been done by a lot of people to make this worthwhile.

One last thing, we have been asked by the editors if we would consider in a year or two updating. So those of you who have written chapters, you are going to be asked to re-look at your chapter. I know it is wonderful, but maybe you can make it a little more wonderful. Those of you left out, like Bob, some of you who did not get a chapter in, you are going to get another chance to do it.

But, seriously, please help with the book. It took a lot of work, a lot of effort. It is really good. We could use more and more sales. The money goes back to the Association.

I yield back the balance of my time.

Mr. ERLENBORN. Thank you very much, Lou. I will echo what Lou said about the book. It is an excellent book. I read one chapter every day. It is the chapter I wrote.

Mr. Speaker, in addition to financial support, the Association benefits enormously from the effort and leadership of many people. I want to thank the officers of the Association, Larry LaRocco, Jack Buechner, Jim Slattery and Matt McHugh, and the members of our Board of Directors and our Counselors for providing the excellent guidance and support necessary to oversee these activities.

In addition, we are assisted by the Auxiliary of the Association, now led by Carol Sarpalius. We are particularly grateful for their help with the Life After Congress seminars, which are held each election year, and our annual dinners.

Needless to say, our programs could not be so effectively run without the exceptional support of our staff: Linda Reed, who has already been mentioned, but deserves a second mention, our Executive Director, Peter Weichlein, Program Director, with special responsibility for the Congressional Study Group on Germany; Katrinka Stringfield, Executive Assistant; and Todd Thompson, Office Assistant. Many thanks to all of you.

The Association also maintains close relations with the counterpart Associations of Former Members of Parliament in other countries. I am pleased to recognize and welcome Aideen Nicholson, Vice President of the Canadian Association of Former Parliamentarians, and Adrian Cunningham, Secretary of the newly formed Association of Former Members of the European Parliament, who are with us today. Would you rise to be recognized?

Thank you.

Mr. Speaker, it is now my sad duty to inform the House of those persons who have served in Congress and have passed away since our report last year. The deceased Members of Congress are:

Thomas Alford, Arkansas;
Frank Annunzio, Illinois;
Jaime Benitez, Puerto Rico;
Edward Boland, Massachusetts;
Howard Cannon, Nevada;
James Corman, California;
Lawrence Coughlin, Pennsylvania;
David Dennison, Ohio;
Isidore Dollinger, New York;
Thomas Downing, Virginia;
Robert Eckhardt, Texas;
Paul Fannin, Arizona;
John Foley, Maryland;
Richard Hanna, California;
Michael Mansfield, Montana;
Edwin May, Jr., Connecticut;
Clinton Kinnon, California;
Harold McSween, Louisiana;
Joe Moakley, Massachusetts;
Henry Reuss, Wisconsin;
Walter Rogers, Texas;

Eldon Rudd, Arizona;
Gerald Solomon, New York;
Floyd Spence, South Carolina;
Lynn Stalbaum, Wisconsin;
William Stanton, Ohio;
Herman Talmadge, Georgia;
Victor Veysey, California;
Harrison Williams, Jr., New Jersey;
Lewis Wyman, New Hampshire;
John Young, Texas.

I respectfully ask that all of you rise for a moment of silence in their memory.

Thank you.

As you know, each year the Association presents a Distinguished Service Award to an outstanding public servant. The award normally rotates between the parties, as do our officers. Last year we presented the award to a remarkable Republican, Jack Kemp. This year we are pleased to be honoring an extraordinary Democrat, Tom Foley.

Tom is a native of Spokane, Washington, and a graduate of the University of Washington and its School of Law. He was elected to represent the State of Washington's Fifth Congressional District in the House of Representatives 15 times, serving his constituents for 30 years, from January 1965 to January 1995.

Prior to being elected the 49th Speaker of the House on June 6, 1989, Tom served as Majority Leader and, from 1981 to 1987, as Majority Whip. During his illustrious career in the House, he was a member of the Permanent Select Committee on Intelligence, the Committee on the Budget, the Select Committee to Investigate Covert Arms Transactions with Iran, the Committee on Interior and Insular Affairs, and chaired the Committee on Agriculture, the Committee on Standards of Official Conduct and the House Geneva Arms Talks Observer Team. In addition, he was chairman of both the House Democratic Caucus and the Democratic Study Group.

When he left Congress, Tom joined the law firm of Akin, Gump, Strauss, Hauer & Feld in Washington, D.C. as a partner. He was Chairman of the President's Foreign Intelligence Advisory Board until his appointment as the 25th U.S. Ambassador to Japan in November 1997, a post he held until 2001.

Upon his return to Washington, he rejoined Akin, Gump, where he advises clients on matters of legal and corporate strategy. Tom currently is Chairman of the Trilateral Commission.

Tom has served on a number of private and public boards of directors and has received numerous honors, including the Cross of the Order of Merit of the Federal Republic of Germany, and, from the Government of Japan, the Grand Cordon of the Order of the Rising Sun, Paulowina Flowers, in recognition of his service to the U.S. House of Representatives and the important impact he had on facilitating harmonious U.S.-Japan relations and promoting understanding of Japan in the United States.

Tom, you have been very patient waiting all this time. Now let me ask you to come up so that I can present you with the award.

Mr. FOLEY. Thank you very much, Mr. President, Mr. Speaker, Mr. Chairman, Members of Congress, my colleagues, former Members, guests, ladies and gentlemen.

I am very honored by this award. When Ronald Reagan was President, he received many awards. One time he received an award and he said, ''I don't deserve this, but I also have arthritis and I don't deserve that either.''

We all in our lives are honored by many things. We are honored by the support and affection and loyalty of our families, our spouses, our friends, and we are honored by those with whom we have had the opportunity to work, particularly those who work in public service.

I think the greatest honor of my life was the willingness of my wife Heather to allow me to join her life. She had to leave, but she was here earlier. Second to that, probably the honor that was bestowed on me, as it was on all of you, by hundreds of thousands of constituents, who were willing to trust your judgment and your responsibility in representing them in the House of Representatives. That is truly a great honor because, as it was said 200 years ago from the gallery, ''Here, sir, the people govern.''

When I was a young Member of Congress, John McCormick said one time when he was Speaker to us that if the day came when you were not thrilled, deeply honored and deeply moved as you came to the Capitol, whether it was a stormy or sunny day and any season of the year, and you did not have that great sense of responsibility and honor to be allowed to serve so many of your fellow constituents, he said if that day comes, quit. Quit. You have stayed too long.

When I was a very young Member of Congress, brand new, not yet sworn in, we, as were Republican Members, were given briefings by our seniors and betters. John McCormick was Speaker when I was a newly-elected Member, and he addressed the Members of the 89th Congress by saying that some of us might have been elected seriously, others by accident, and he would only know and the leadership would only know after 2 years time if we were reelected. In the meantime, he wished us well.

We were then addressed by a very powerful member of the Appropriations Committee, Mr. Irwin, who said that he wanted to warn us against the single greatest danger that could occur to a new Member of Congress beginning his or her service. We leaned forward to hear what that was, some ethical trap or other we thought perhaps.

He said, ''That great danger, above all others, is thinking for yourselves.'' He said, ''Don't do that.'' He said, ''For heavens sake, don't do that.'' He said, ''Trust the subcommittee chairmen, trust the committee chairmen, trust the chairman of the Democratic Caucus, trust and support the Whip, the Majority Leader,'' and he said, ''Above all else, above all else, trust, support and follow the Speaker.''

I remember being outraged, deeply offended that a senior member of my party should suggest that I subcontract my judgment to the leadership when I had been elected, I thought, as one of a number of young new members, Lloyd Meeds and I, from the State of Washington to come and do my part to see if we could help our constituents, our State and our Nation.

He went on to say, Mr. Irwin, that more people had gotten into trouble in this body by thinking for themselves than by stealing money. That outrageous statement was absolutely beyond sufferance.

Later on, however, it was my honor to be a subcommittee chairman and later, with Kika de la Garza, our committee chairman and the Democratic Whip and the Majority Leader and, finally, in June of 1989, the Speaker of the House. As I took the oath as Speaker, the wise words of Mr. Irwin came across a generation of time, and I thought how right he was, how right he was, Members should support, follow and accept in all ways the leadership of the Speaker. But, of course, that does not happen. Then and now, people of all parties, of all regions, of all circumstances that serve here follow their own best judgment as to how they can best serve their citizen constituents.

I think that it is an enduring honor to have served in this body, and for, I think, the thousands who have served here it is certainly one of the most significant things that happens in their lives.

After I left here I had an additional honor of being asked by President Clinton to serve as Ambassador to Japan, and I remember very distinctly the moment when I presented my credentials to the Emperor and was proud to say I have been selected, Your Majesty, as the Ambassador of the United States of America to Japan. I herewith present my credentials of office and my predecessor's letter of withdrawal. That was a fascinating opportunity for me, again a great honor, to represent our country to America's strongest ally in the Pacific, and to follow, again, a very distinguished group of Ambassadors who have served there before, including the late Mike Mansfield.

As I returned from Japan after being asked to stay for a short term during President Bush's administration because of the tragic sinking of the Ehime Maru by a U.S. submarine, I left on the very day that was mentioned by our President, and on April 1, when the Chief of Station told me, as I was getting in the car to go to the airport, that we have an aircraft down from Kadena in Hainan Island, China. But those events and the tension that followed have passed and the United States has resumed a constructive relationship in China.

And I want to say a word of praise for this organization and its constant work to use the opportunity of former parliamentarians here to meet with parliamentarians in other countries and in other regions. The study group for Germany and Japan and the one soon to be established for China, the parliamentary exchanges with Mexico and with Canada, with Eastern Europe and elsewhere have allowed the United States Congress and the United States former Members to share their experiences with parliamentarians, distinguished parliamentarians in other parts of the world, and I think together we advance the cause of democracy by that effort. I do not think there is any higher calling that a former Member of Congress can aspire to than to use whatever experience he or she has in the service of our constituents and in parliamentary democracy to advance it throughout the world.

Again, with great thanks to all of you for the honor you have given me today.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks and I leave the floor. But before I do, let me say one final thing of appreciation to one other Member here today, Bob Michel, with whom I had the great honor of serving all the time I was here and especially when I was Speaker during the time when he was the distinguished Republican leader of the House. If circumstances had been a little different and the electoral cycle a little different, Bob Michel would have been one of the great Speakers of this House, and I am proud to know him. Thank you very much.

Mr. LAROCCO. Without objection, so ordered.

Mr. ERLENBORN. You may be wondering, since I missed a line in my introduction of Tom Foley, what he was doing here today, and that was he was receiving the Statesmanship award. The Distinguished Service Award is being given to Tom Foley. I did not want him to hold the award during his speech, but I have a copy of it here and here is what it says: ''Presented by the U.S. Association of Former Members of Congress to the Honorable Thomas S. Foley for his many years of distinguished service to the Nation as U.S. Ambassador to Japan and as a Member of United States Congress for 30 years, including his extraordinary leadership as Democratic Whip, Majority Leader and Speaker of the House of Representative. Washington, D.C., May 9, 2002.''

So now you know.

Thank you again, Tom, for your leadership and service.

Mr. Speaker and members of the Association, we are honored and proud to serve in the U.S. Congress. We are continuing our service to our Nation in other ways now, but hopefully ones that are equally as effective. Again, thank you for letting us return today to this Chamber.

This concludes our 32nd annual report by the U.S. Association of Former Members of Congress, and thank you all.

Mr. LAROCCO. The Chair would like to recognize the gentleman from Illinois for the following purpose: If the former Members would join me in giving our President, John Erlenborn, an expression of appreciation for his service. Thank you, John.

The Chair again wishes to thank the former Members of the House for their presence here today. Before terminating these proceedings, the Chair would like to invite those former Members who cannot respond when the roll was called to give their names to the Reading Clerk for inclusion on the roll. The Chair wishes to thank the other Members of the House for their presence here today. Good luck to all.

The Chair announces that the House will reconvene at 10:40 a.m.

Accordingly (at 10 o'clock and 25 minutes a.m.) the House continued in recess.

□ 1041

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATOURETTE) at 10 o'clock and 41 minutes a.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mrs. MYRICK. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the CONGRESSIONAL RECORD and that all Members and former Members who spoke during the recess have the privilege of revising and extending their remarks.

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

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646) ''An Act to provide for the continuation of agricultural programs through fiscal year 2011.''.

The message also announced that the Senate has passed without amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 347. Concurrent resolution authorizing the use of he Capitol Grounds for the National Peace Officers' Memorial Service.

PROVIDING FOR CONSIDERATION OF H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 415 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 415

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, and for military construction, to prescribe military personnel strengths for fiscal year 2003, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. After general debate the bill shall be considered for amendment under the five-minute rule.

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

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

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

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

SEC. 3. It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in part B of the report of the Committee on Rules not earlier disposed of or germane modifications of any such amendment. Amendments en bloc offered pursuant to this section shall be considered as read (except that modifications shall be reported), shall be debatable for 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The original proponent of an

amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

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

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

□ 1045

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

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

Mr. Speaker, yesterday the Committee on Rules met and granted a structured rule for H.R. 4546, the National Defense Authorization Act for Fiscal Year 2003. The rule provides for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Armed Services. Mr. Speaker, this is a fair rule. It is a traditional structured rule for defense authorization and it provides for debate on a number of pertinent issues, including nuclear policy, missile defense, quality-of-life issues for our servicemen and women, and a number of noncontroversial concerns.

H.R. 4546 is a good bill. This legislation firmly shows our commitment to restoring the strength of our Nation's military. This is the fifth straight year of real increases to defense spending after 13 consecutive years of real cuts to defense budgets, and the largest increase in military manpower since 1986.

With U.S. personnel risking their lives on the front lines of the war on terrorism, H.R. 4546 is more than just a signal to our soldiers, sailors, airmen and marines that this is a Nation that recognizes their sacrifices. It is the means by which we meet our commitment to providing them a decent quality of life, by providing an across-the-board 4.1 percent pay increase for military personnel, as well as improving benefits and continuing to build new housing and working facilities. The housing conditions have been deplorable, and certainly they deserve better.

I commend my colleagues, the chairman of the Committee on Armed Services, the gentleman from Arizona (Mr. STUMP), and the ranking minority member, the gentleman from Missouri (Mr. SKELTON), for crafting legislation that will make America a safe place. It improves our defense against terrorists, rogue nations, against chemical and biological warfare and nuclear weapons.

However, there is one amendment the Committee on Rules made in order that I strongly oppose, the Sanchez amendment. It would allow abortions on our military bases overseas. Military treatment centers, which are dedicated to healing and nurturing life, should not be forced to facilitate the taking of the most innocent human life, the child in the womb. For the past 5 years, the House has voted to keep abortion on demand out of military medical facilities. I urge my colleagues to stay on this course and vote against this amendment.

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

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

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

Mr. Speaker, after September 11, the world saw something that we have known for a long time: Ensuring the security and liberty of the American people is not a partisan issue. Regardless of our differences on domestic issues, like Social Security and education, Democrats and Republicans are united behind our troops and committed to providing them the resources to defend the people of this great country. We are all Americans, we are all patriotic, and we are all here to promote the best interests of this great Nation. A strong national defense stands as one of the great pillars of the might of our country, and this bill largely reflects America's bipartisan support for national defense, the war on terrorism, and our men and women in uniform.

In light of this bipartisan cooperation in the war on terrorism, it is particularly outrageous that the Republican majority has given us such an unfair and one-sided rule on this important bill. Mr. Speaker, the ranking minority member and the chairman of the House Committee on Armed Services, the gentleman from Missouri (Mr. SKELTON) and the gentleman from Arizona (Mr. STUMP), respectively, deserve real credit for this bill. The gentleman from Missouri (Mr. SKELTON) in particular has fought very hard to keep this process bipartisan.

Mr. Speaker, in a nutshell, this bill provides the resources to win the war on terrorism and to ensure America's military remains the world's finest. It meets the President's overall defense request, which is a large increase over current spending, and it provides substantial resources to fight terrorism.

Additionally, Democrats and Republicans have again worked together to make significant improvements in the troops' quality of life.

The bill provides for another substantial military pay raise, at least 4.1 percent for all servicemen and women, and up to 6.5 percent for mid-grade and senior noncommissioned officers. It authorizes $10 billion for military construction and family housing because our troops and their families should not have to live in substandard conditions. And for military retirees, the bill ends the current practice of reducing veterans' retirement pay when they seek disability compensation.

I am disappointed, Mr. Speaker, that the Committee on Rules rejected my amendment to remove some of the obstacles faced by more than 15,000 legal immigrants in the armed services who want to become citizens. Their service reflects the tremendous pride and patriotism of our immigrant communities, particularly among Hispanic immigrants, and I will keep working to make sure this becomes law.

I am also disappointed Republican leaders did not make in order the amendment offered by the gentleman from Mississippi (Mr. TAYLOR), one of the strongest supporters of the military in this Congress, to allow the House a clean vote on another round of base closures, something we have not yet had. And the gentleman from Mississippi (Mr. SHOWS), another pro-defense Democrat, had a worthy amendment to allow military retirees the same health coverage as Federal employees, but Republican leaders refused to allow it.

This bill does, however, continue our bipartisan approach to ensuring America's military superiority throughout the world, providing $3.7 billion more than the President requested for important weapons programs. In particular, it authorizes over $5.2 billion for the F–22 Raptor, the Air Force's next generation air dominance fighter. It includes $1.6 billion for the services' various versions of the Osprey aircraft. It provides $562.3 million for the Global Hawk UAV. And the bill provides $3.4 million for the Joint Strike Fighter, the high tech multi-role fighter of the future.

As you can see, Mr. Speaker, the majority of this bill reflects the bipartisan support our armed forces enjoy in this Congress. So I am frankly mystified that Republican leaders are insisting on using the war on terrorism as an excuse to continue their long-time attack on the environment. It verges on ideological war profiteering, and they should be ashamed of themselves.

Some Republicans have squirreled away in this bill provisions to exempt the Pentagon from landmark environmental protections that have been on

the books for decades. America has fought and won numerous wars while respecting the Endangered Species Act, for instance, but now some Republicans insist on undercutting it. Since Republican leaders know they cannot defend in the light of day their attack on the environment, the Committee on Rules last night refused to allow the House to even vote on Democratic amendments to strike these environmental rollbacks, as well as many other amendments offered by Democratic Members.

Additionally, there are several very important issues in the bill that the Committee on Rules majority has given short shrift to by limiting debate to 10 or 15 minutes. Given the magnitude of nuclear weapons testing, missile defense, and other matters of global reach, it seems irresponsible to give Members of this body so little time to debate. In years past, the defense authorization bill has taken several days, if not a full work week of floor time. So I am disappointed the Republican leaders are rushing through this bill in one day so they can get out of town.

Mr. Speaker, it is my intention to oppose the previous question so that this bill can be improved in a way that will make it truly bipartisan. If the previous question is defeated, it is my intention to offer an amendment to the rule that will allow the House to consider amendments addressing the environmental issues in this bill as well as the other issues proposed by Democratic Members.

I urge Members of both political parties to join me in opposing the previous question when it is ordered. In that way we can protect the environment and preserve the bipartisanship that has been so important to the war on terrorism. Then we can overwhelmingly pass this bipartisan bill for the troops.

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

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I congratulate her on her management of this rule.

Let me say that as I listened to my friend from Dallas describe this rule, it is not quite the one that I recall our having crafted late last night. In years past, we have had 150-plus amendments filed to the Committee on Rules on this legislation. The success of passage of this Bob Stump Defense Authorization Act, which is very appropriately titled for our colleague who is going to be retiring at the end of the 107th Congress, in fact brought a total of 83 amendments, the lowest number that I can ever remember. And I am very pleased that of those 83 amendments filed, we have made in order 25 amendments. There are 10 amendments authored by Democrats, there are 12 amendments authored by Republicans, and there are 3 bipartisan amendments that have been made in order. So we are clearly going to have the opportunity to have a full debate on this issue.

In years past, Mr. Speaker, we have had sometimes 2 weeks of consideration of this measure because it has been so contentious. This is probably the least contentious, the least divisive defense authorization bill that we have had, again, in a long period of time, in large part due to the fact that we have come together as a Nation to win the war on terrorism and to make sure that we have a defense capability second to none so that we do not face the kinds of tragedies that our country has faced in the past.

So I believe that we have a very good rule here that allows for a full debate on a wide range of issues. This rule, I am happy to say, is going to enjoy bipartisan support. I know there are concerns that have been raised by a number of people, but one of the things we know in this institution is that we are never going to make everyone happy when it comes to the process of amending legislation. But I do believe that this measure is a very appropriate one.

The structure for this rule was in fact designed by our late former colleague, Les Aspin, who put into place this procedure that we are using right now, the former chairman of the Committee on Armed Services and the former Secretary of Defense Mr. Aspin. So I believe that we have done this in a very fair and a very balanced way.

I want to congratulate, along with the distinguished chairman of the Committee on Armed Services, the gentleman from Arizona (Mr. STUMP), my friend, the gentleman from Missouri (Mr. SKELTON), my home State of Missouri as well, who has made a number of proposals to us. And I know he has some concerns, but I am very pleased that we will, as I said, enjoy bipartisan support for this rule and will have very strong bipartisan support for this measure at the end of the day.

□ 1100

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the strength of a democracy is to be able to have full public debate on important national issues such as national defense. We stand for a strong national defense. Many of us in this caucus have a long history in that regard; but we also stand for the proposition that the American people can be trusted with the facts, and that there should be a full discussion on important issues of national defense.

The majority has ignored that and ignored the past practices of this House of having a full airing of national defense issues, and having a bill that would be on the floor for several days, perhaps even a week. That is in the best tradition of this country. We stand for a strong America, and we stand for a strong and complete discussion of the issues that make America strong, not the kind of rule which has been presented today.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON), the ranking member on the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, I rise to express some concern that I have; and as Members know, I had an opportunity to testify yesterday before the Committee on Rules. I intend to vote against the previous question. However, should the previous question pass, it is my intention to vote for the rule. But let me first tell Members of my serious concerns.

A number of key Democratic amendments and proposals were not made in order. They include, but are not limited to the amendment of the gentleman from South Carolina (Mr. SPRATT) requiring 12 months notice to Congress before nuclear testing. It makes sense to debate that. Or another amendment by the gentleman from South Carolina (Mr. SPRATT) on cooperative threat reduction. What is more important than that issue?

It makes sense to debate the Allen amendment prohibiting nuclear-tipped interceptors. That was put to bed back in 1982. It makes sense to debate the amendment by the gentleman from Mississippi (Mr. TAYLOR) on the Colombian troop cap, or the gentleman's amendment of last year repealing last year's base closure law; the Rahall amendment on the environmental provisions; the Hinchey amendment on environmental provisions; as well as the Hooley amendment. These are items which should have been, in my opinion, made in order because we are in favor of a full and fair debate. Nevertheless, we forge ahead.

Mr. Speaker, I stated that I would vote against the previous question because of the fact that these amendments were not made in order, that we seem to be rushing to judgment without a full and fair debate that the country is entitled to have.

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

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

Mr. HASTINGS of Washington. Mr. Speaker, I rise in strong support of the rule and the underlying legislation. The legislation before us today will have a tremendous positive impact on improving the environment in our country and ensuring the safety of all Americans.

But first, today's legislation authorizes $382.8 billion for national defense, which is consistent with the House budget resolution. It includes $7.3 billion for programs to combat terrorism, and it also includes an increase of 4.1 percent for our men and women in uniform.

Further, this legislation keeps our commitment to our military retirees by completing eliminating the unfair

practice of reducing retirement pay based on disability payments, and this will be done by the year 2007.

I am very pleased that the legislation also includes the administration's proposal to accelerate cleanup of former nuclear weapon production sites throughout the country. This year the Bush administration has made a strong commitment to our environment through the environmental management, or EM, program at the Department of Defense. As the chairman of the House Nuclear Cleanup Caucus, I appreciate the commitment of the committee to ensure that our Nation's commitment to cleaning up these sites, which represent the greatest environmental challenges in the country, will continue on track.

The legislation provides at least $800 million to a new cleanup account to accelerate and reform cleanup of the highest risk environmental threats in the U.S. in a new and profoundly different manner. This new account will implement the results of the Department's year long, top-to-bottom review of the EM program. The account will direct dollars to accelerate cleanup throughout the Nation without compromising safety and embracing reforms to ensure that the best commercial practices and technology drive the program in the future.

Most important, however, is the commitment to drive more program dollars directly to cleanup and risk reduction, which will accelerate cleanup by decades at these sites throughout the country and save the American taxpayers tens of billions of dollars in the future.

I am convinced that this program will be successful, and I am proud that the Hanford site in my district has led the Nation in reaching the first agreement under the new cleanup account. This agreement, which was agreed to by the Bush administration, the Governor of the State of Washington and the EPA, will direct $433 million out of this new account to Hanford. This historic agreement, when fully implemented, will result in cost savings of $33 billion and will accelerate cleanup by 35 to 45 years. This is truly a remarkable commitment to our environment, and I look forward to additional sites reaching similar agreements in the future.

Mr. Speaker, this agreement will provide a 5-year funding commitment instead of the year-to-year hassle that we go through every year.

Mr. Speaker, I urge Members to support the rule and the underlying legislation.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. HASTINGS).

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

Mr. HASTINGS of Florida. Mr. Speaker, I will vote for H.R. 4546, the Bob Stump National Defense Authorization Act for Fiscal Year 2003. It is noteworthy that it is named for the chairman, the gentleman from Arizona (Mr. STUMP), and it will be a tremendous legacy once finalized.

The bill has flaws, however, and there were numerous amendments that were offered by Members on both sides of the aisle which were not made part of this rule.

However, I do feel overall that the rule will allow for support for our fighting men and women as they wage war against terrorism. It equips them with the technology, training and personnel that they need to attain victory, and also demonstrates our commitment to providing an improved quality of life in granting of funds for military living and working facilities.

However, due to the structured rule, we have been denied the opportunity to debate several amendments, including one I introduced. The amendment I introduced would have increased funding currently authorized for military health care by $2.5 million, with the necessary offsets that would not have affected the Pentagon at all. Not $25 million, not $250 million, but just $2.5 million specifically for retirees and their dependents.

In addition to serving active duty, the military and their families, the military health system provides services to military retirees and their dependents. While the number of people on active duty is not projected to increase dramatically over the next few years, the number of retirees and their dependents, especially over the age of 65, will. We face immense challenges in this regard.

I regret that the structured rule has denied me and other Members the opportunity to provide a much-needed boost to the military health care system. Be assured that my support, as my colleagues, for our military extends to support for veterans and their families, and I will continue to support them however, wherever, and whenever I can.

Mr. Speaker, I rise today to voice my support for H.R. 4546, the Bob Stump National Defense Authorization Act for Fiscal Year 2003. This bill shows the nation's unwavering support for our fighting men and women as they wage war against terrorism. It equips them with the technology, training and personnel they need to attain victory. It also demonstrates our commitment to providing an improved quality of life in the granting of funds for upgrades to military living and working facilities.

However, due to the structured rule, we have been denied the opportunity to debate the amendment I introduced.

My amendment would have increased funding currently authorized for military health care by $2.5 million, specifically for retires and their dependents.

Mr. Speaker, in addition to serving active duty military and their families, the military health system provides services to military retirees and their dependents. While the number of people on active duty is not projected to increase dramatically over the next few years, the number of retirees and their dependents, especially those over the age of 65, will.

The greatest challenge facing the military health care system is caring for retirees—especially those over the age of 65.

Again, I regret that the structured rule has denied me the opportunity to provide a much needed boost to the military health care system. Be assured that my support for our military extends to support for veterans and their families and I will continue to support them however, wherever, and whenever I can.

Mr. Speaker, there are a few other aspects of this bill that remain troublesome—one concerns our environment and the other concerns the deployment of American troops in Colombia. Regrettably, this structured rule has denied us the opportunity for further debate on these two important issues.

This bill grants special exemptions to the Department of Defense environmental programs. This provision is, and I quote, ''intended to restore a balance between environmental responsibilities and military readiness.'' It relieves DoD, when conducting training exercises, from observing the Endangered Species Act, the Migratory Bird Act, and the Marine Mammal Act.

The ESA already contains a provision that permits DoD to request a waiver from compliance with the Endangered Species Act if that compliance poses a threat to national security. I question the necessity of granting the Department of Defense with a blanket exclusion from the laws that the rest of us must adhere to.

An amendment, offered by Mr. MALONEY sought to strike this language from the bill, and another from Ms. SANCHEZ required annual reports from DoD on its stewardship of the environmentally sensitive areas on military bases. Both of these amendments would have initiated a much needed debate on this issue, but we have denied that right by the rule that has been invoked.

Secondly, Mr. TAYLOR offered an amendment to limit the number of U.S. troops in Colombia to not more than 500. Mr. Speaker, I have some grave concerns about the necessity of increasing the number of American troops currently in Colombia and would have welcomed the opportunity to debate this issue with my colleagues.

MOTION TO ADJOURN

Mr. TAYLOR of Mississippi. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the motion to adjourn offered by the gentleman from Mississippi (Mr. TAYLOR).

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

Mr. TAYLOR of Mississippi. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 44, nays 366, not voting 24, as follows:

[Roll No. 134]

YEAS—44

Allen
Andrews
Barton
Berry
Brady (PA)
Capuano
Conyers
Crowley
DeFazio
Dingell
Doggett
Filner
Frank
Hastings (FL)
Hinchey
Holt
Honda
Jefferson
Lampson
Langevin
Larson (CT)
Lee
Lewis (GA)
McDermott
McGovern
Miller, George
Mink
Owens
Pallone
Pascrell
Payne
Pelosi
Sandlin
Schakowsky
Shows
Slaughter
Spratt
Stark
Tanner
Taylor (MS)
Towns
Waters
Woolsey
Wu

NAYS—366

Ackerman
Aderholt
Akin
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pastor
Paul
Pence
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (FL)

NOT VOTING—24

Abercrombie
Bishop
Burton
Clay
Crane
Cubin
Hall (OH)
Jackson-Lee (TX)
Kaptur
Maloney (CT)
Meehan
Moran (VA)
Napolitano
Norwood
Ose
Peterson (PA)
Riley
Schaffer
Skeen
Smith (NJ)
Traficant
Watson (CA)
Waxman
Young (AK)

□ 1139

Messrs. SAXTON, COBLE, GALLEGLY, ROGERS of Michigan, and Mrs. MALONEY of New York and Ms. HART changed their vote from ''yea'' to ''nay.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would advise that the gentlewoman from North Carolina (Mrs. MYRICK) has 20 minutes remaining, and the gentleman from Texas (Mr. FROST) has 19 minutes remaining.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SESSIONS), another member of the Committee on Rules.

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

Mr. Speaker, today we are considering this rule and the debate that certainly concerns our support of the United States military and the men and women who represent us. We are talking in this bill about a better pay raise, a pay raise where we are able to keep the brightest and the best. We are talking about better housing for our men and women; we are talking about increasing our readiness; we are talking about research and development; we are talking about counterterrorism. We are trying to talk about the issues which I perceive are important to the military in this country.

However, perhaps the most key component is we are going to talk about homeland security today, and there is one amendment which will be discussed today that says that no funds for 2003 appropriations for the Department of Defense may be used for space-based national defense programs.

Mr. Speaker, I would tell my colleagues that I believe that now, more than ever, this Congress should focus on not only ballistic missile threats that face this country, because it is not just what is aimed at our military, it is what is aimed at our homeland. Our homeland security is now an issue.

Mr. Speaker, there are more than 28 countries outside the United States that possess not only ballistic missiles, but the desire and the threat to not only threaten America, but also our allies. These 28 countries, as we look around, many of them represent belligerent countries who would wish for America to be harmed. These 28 countries possess the ability to threaten the United States and our military and our allies.

What is important about this debate is that we need to understand what our President has said about it. President Bush has said, America's development of a missile defense is a search for security, not a search for advantage.

Mr. Speaker, homeland security for America is what this bill is also about. I support this rule, I support this bill, and I hope Members will focus on homeland security and the support our President gives for this bill.

□ 1145

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MCGOVERN), a member of the Committee on Rules.

Mr. MCGOVERN. Mr. Speaker, I oppose this rule. The defense authorization bill provides a waiver to the Secretary of Defense to get around the current cap on U.S. military personnel in Colombia.

I strongly oppose such a waiver. It is a serious abrogation of the duties of this Congress to monitor and provide oversight to our military programs and presence in Colombia. I oppose this waiver because it provides the Secretary of Defense with the ability for an unrestricted escalation of U.S. military personnel in Colombia and further engages in that country's 40-year-old civil war, a war that Colombia's government has failed to adequately support.

The gentleman from Mississippi (Mr. TAYLOR) offered an amendment to

strike the waiver language and maintain the cap. Unfortunately, that amendment was not made in order.

Mr. Speaker, this a huge issue. We have seen waivers used and abused. Mr. Speaker, this bill strips away the principal safeguard Congress has insisted upon to protect us from an escalating military mission in Colombia. It deserves a debate.

I urge my colleagues to vote ''no'' on the previous question so we can bring up the Taylor amendment and other amendments, and if we are not successful in defeating the previous question, then vote against the rule.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. HAYES), my neighbor.

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

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

Mr. Speaker, today I rise strongly in support of the rule that would allow for consideration of H.R. 4546, the Bob Stump National Defense Authorization Act for 2003.

The tragic events of September 11, 2001, have thrust our Nation's military into the spotlight, and called to duty the brave men and women of the U.S. Armed Forces. Once again, U.S. citizens are rallying behind them in strong support of the harrowing mission they have been called upon to perform, and today the U.S. Congress has the duty to pass this important legislation that will help provide the necessary resources for these brave men and women to do their job.

Where were the Members on September 11? I was in the Pentagon at 8:47 a.m. discussing the defense bill with Secretary of Defense. My question to him that morning was, when will people realize that national security is our number one priority? His answer was to agree and say that it would take a major incident for this to happen. That was 8:47 a.m. on September 11.

Mr. Speaker, this rule and the underlying legislation first and foremost take care of the most vital asset in our military: our people. It provides every servicemember with a 4.1 percent pay increase. It also begins a transition program to fully fund concurrent receipt of veterans' disability and retirement pay. It increases housing allowances and boosts special pay while extending enlistment and reenlistment bonuses.

The defense authorization bill increases our manpower by nearly 1 percent, the largest single increase since 1986. It builds upon our work last year and continues to reverse the decline of military readiness by funding key operations, maintenance, and training accounts.

This financial support devoted to our national security is long in coming. I am proud to say that as a member of the Committee on Armed Services, this legislation will enable our men and women in uniform to continue prosecuting successfully the war on terrorism.

The bill in front of us today marks the most significant increase to the defense budget since 1986. It has targeted two of the most critical areas which are crucial to maintaining a healthy and robust military: quality of life and readiness.

For the soldiers and airmen in my district, Fort Bragg and Pope Air Force Base in North Carolina, the ability to adequately care for their families and train for the mission for which they are called are two issues second to none. I believe this legislation makes significant progress in these areas.

Furthermore, the bill funds the development and testing of an effective ballistic missile defense system.

Mr. Speaker, it is a gross injustice that it took unspeakable tragedies in September to focus the public eye on the need for a more robust defense budget. I feel the legislation in front of us today takes the first step, and the rule provides for consideration and is fair and effective. We are establishing a clear and strong course to rebuild our Nation's defenses.

I urge my colleagues to send a message loud and clear to our soldiers, sailors, airmen, and Marines that we will strongly support them and give them the resources necessary to perform the mission.

Mr. Speaker, before I close, I would also like to pay tribute to my friend and colleague, the chairman of the Committee on Armed Services, the gentleman from Arizona (Mr. STUMP). He has served honorably, courageously, and effectively. He will be sorely missed. He personifies national security by his service in our military and in our Congress.

I say to the gentleman from Arizona (Mr. STUMP), best wishes and Godspeed.

When it comes to defending our country, our families, and our freedom, there is no higher priority than national security. To this end, I think the Marine Corps says it best: We must always be faithful; Semper Fi.

I urge my colleagues to vote in favor of the rule for national security and in favor of H.R. 4546, the Bob Stump National Defense Authorization Act for fiscal year 2003. Semper Fi.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I rise in strong opposition to this rule. The Committee on Rules has denied the House the opportunity to eliminate the demeaning practice of making only American servicewomen stationed in Saudi Arabia wear an abaya, a religious garment of faith most of them do not follow. These women are on the front lines risking their lives fighting to protect our freedom and democracy and to defend Saudi Arabia itself.

The Langevin-Hostettler amendment should have been ruled in order. Women make first-class soldiers and should not be treated like second-class citizens. Our amendment would have prohibited the military from requiring or strongly encouraging servicewomen to wear abayas and would have stopped forcing the American taxpayer to pay for them.

As we can see, the abaya and head scarf cover the entire body from head to toe. The State Department does not require or encourage any of its employees to wear the abaya on duty precisely because they are representing the United States. Are our military not doing the same? Not even the spouses and dependents of the State Department staff wear the abaya.

The government of Saudi Arabia does not require non-Muslim women to wear the abaya, and neither should we. General Schwarzkopf agrees. During the Gulf War, he never issued such a mandate. Male servicemembers are not required to wear the abaya, grow beards, or embrace any Islamic religious beliefs in this way, so neither should the women.

Forcing our female troops to wear the abaya has a negative impact on our recruitment and diminishes morale, unit cohesion, and the chain of command headed by female servicemembers. Most of all, it is not necessary. As I said, the Saudi government does not require non-Muslim women to wear the abaya.

I urge my colleagues to oppose the rule.

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

I just wanted to issue a point of clarification. It is my understanding that a Federal lawsuit has been filed on this issue, because I also support that. It is very inappropriate for Congress to get involved in this in the middle of the lawsuit.

Mr. Speaker, I yield 3½ minutes to the gentleman from Pennsylvania (Mr. WELDON).

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank the gentlewoman for yielding time to me. I thank our colleagues for working on what I think is a good, bipartisan defense bill.

As my colleagues know, I voted against the President's budget on the House floor because I was not satisfied with the level of defense spending because of our inability to meet our resource needs.

I give total credit to the chairman, the gentleman from Arizona (Mr. STUMP), and the gentleman from Missouri (Mr. SKELTON) for working together to get us a portion of that $10 billion to help with the modernization problems we have.

The fact is, we took a holiday in the nineties and we are paying for it today. If we look at the shipbuilding account, which the gentleman from Mississippi (Mr. TAYLOR) has been fighting for, we are building down to a 235-ship Navy with our current funding level. The average age of our tactical fighters is 17

years old. That B–52 bomber will be 7 years old before it is retired. We have cut back across the board and now we are trying to play catch-up, and it is impossible. This bill makes a good downpayment in trying to reverse that, but it is not enough.

I want to respond to one of the issues raised by my colleagues on the environment. I will take a back seat to no one on environmental votes. I have been a green Republican, voting and endorsing and cosponsoring the Clean Air Act, clean water, endangered species, wetlands protection. I serve on the Migratory Bird Commission. I voted against the environmental riders.

This bill does not gut our environmental laws. There is a need for us to make sure that our military is properly trained. At Camp Pendleton in California, the number one training site for our Marines' amphibious force, they come off of the ships, the landing craft, and they have to board buses to go across an area where some endangered species are. Then they come back on the ground and do their training. These are the same people that we ask to risk their lives.

What we are saying in this bill is we need to have some rifle-shot provisions to let this training take place. This is not about any rollback; this is not about going back to the 1930s. This is about a very commonsense, bipartisan approach to let our military and our soldiers, sailors, corpsmen, and Marines be equated to a snail darter. Is a snail darter's life more important than the soldier?

The whole issue of migratory birds, cut me a break. Maybe we should buy a duck stamp and put it on our planes, because for a $15 duck stamp we are legally allowed to kill birds; but yet we are saying we should not have an exemption so our military can properly train.

Those who say that somehow this bill is rolling back environmental laws in this country are grossly misinformed. I invite them to work with us. We are not about hurting the environment. If we look at the Navy's research budget, more money is spent on oceanographic research by the Navy than any Federal agency in this country. Every oceanographic research school, Scripps, Woods Hole, gets all or a bulk of their money from naval research accounts.

We are trying to do the right thing. We are also trying to protect our troops. We are also trying to give some relief so our military personnel can be properly trained and equipped when they are called upon to protect America.

Mr. Speaker, it really boggles my mind. When I took a delegation out to California and we flew by helicopter along the coast, the only open area left along California's coast was Camp Pendleton. Where were the State officials? Where were the county commissioners? I used to be a county commissioner in local zoning and planning, to allow every piece of property to be built up so the endangered species had no place to go except for our military base? And now to come back and say somehow the military has to bear the brunt is absolutely outrageous. Yet, that is the fact today.

I encourage my colleagues to vote for the rule and to vote for final passage. Again, I commend my leaders for the great job they did with this legislation.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Speaker, I rise in opposition to the rule and I rise in opposition to the previous question.

Mr. Speaker, this is a fine example of high-handed arrogance by the Republican leadership and the Committee on Rules. What is wrong with having a vote to address the problems which exist with regard to a piece of legislation which does not permit the House to require the regular order and to see to it we have a chance to discuss all of the questions which relate to important environmental matters?

I have been dealing with the military for years. They constantly seek to get out from under environmental laws; and the military bases in this Nation are some of the most skunked up, defiled, and dirty places, contaminated with hazardous waste, radioactivity and other things.

They seek yet another opportunity to escape the requirements of law that say we are all going to together protect our environment against the kind of high-handed arrogance that the military engages in.

There is provision in each of the laws which were challenged originally to permit the military to seek relief and to get it. And there is a regular process around here which would permit the military to have the ordinary hearings and find out what relief they need.

No action of that kind was taken in the committees of jurisdiction; and the Committee on Armed Services, with its usual arrogance, saw to it that there was no opportunity for the environmentalists to be heard, no opportunity for Members to be heard, no opportunity to complete a record to justify whether or not this is appropriate.

Clearly, when they are behaving in this kind of a sneaky and dishonest fashion, it is quite appropriate for the House to give them a rap on the knuckles and say, we think you ought to allow this matter to be debated. We think you at least ought to give an opportunity for an amendment to be considered to strike this.

They seek an exemption from the Migratory Bird Act. I would note that this Nation has fought World War I, World War II, and a number of other wars with that law on the books, and a number of police and military actions with the others. I say vote down the rule and vote down the previous question.

Two weeks ago the Department of Defense (DoD) sent a legislative proposal to the Committee on Armed Services seeking broad exemptions from six of our Nation's most important environmental laws—the Clean Air Act, Superfund, the Resource Conservation and Recovery Act, the Migratory Bird Treaty Act, the Marine Mammal Protection Act, and the Endangered Species Act.

Armed Services ultimately did not seek to undo the important environmental provisions contained in four of the six laws. Unfortunately, the Migratory Bird Act and the Endangered species Act did not fare so well. Mr. Rahall and I, with several of our colleagues, offered an amendment to strike those broad and unwarranted exemptions. But the Republican leadership will not allow a vote today to undo the damage. That is why I ask my colleagues to defeat the previous question.

We absolutely support the need to maintain military readiness in the interests of national security. That is why when we wrote the laws we inserted specific provisions to ensure there was no conflict between protecting our national security and complying with our environmental laws.

This is the case with the Migratory Bird Treaty Act of 1981, one of our oldest conservation statutes. The Secretary of Interior has the authority to determine the circumstances under which migratory birds can be taken, killed or possessed and issue regulations permitting such activities. The United States has fought in two World Wars, the Korean War, Vietnam, and the Persian Gulf War with the 1918 Act in place. I fail to see why our current war against terrorism would now call for its elimination.

The members of this body should also be aware of the ridiculous arguments that the DoD is making in court to support its efforts to exempt itself.

In the FDM case, DoD claimed:

> . . . plaintiffs have suffered insufficient injury because the more birds that the defendants (DoD) kill, the more enjoyment Mr. Frew (a plaintiff) will get from seeing the ones that remain: ''bird watchers get more enjoyment spotting a rare bird than they do spotting a common one.''

Let me also quote Judge Sullivan's finding with respect to DoD's argument (on page 17 of his opinion):

> Suffice it to say, there is absolutely no support in the law for the view that environmentalists should get enjoyment out of the destruction of natural resources because that destruction makes the remaining resources more scarce and therefore valuable. The Court hopes that the federal government will refrain from making or adopting such frivolous arguments in the future.

With regard to the Endangered Species Act (ESA), the military again seeks to have exemptions for which no other Federal Agencies are eligible. ESA requires that land where threatened or endangered species live be designated critical habitat. The military does not want to comply with this law like every other federal agency and every other American citizen does. As the author of ESA, I can assure you that exemptions are available for reasons of national security. In fact, Section 7 of ESA allows agencies to get waivers from the Fish and Wildlife Service. Ironically, the Pentagon wants a blanket waiver even though they have never sought a Section 7 exemption.

Needless to say, DoD proposals have gone through a most curious legislative process so

far. The relevant Committees with expertise have been bypassed. No hearings have been held on these significant exemptions. And now we don't have a chance to vote on the House Floor.

A stealth process has been employed to circumvent the Committee of jurisdiction, to deny the public the opportunity to testify, and to undermine two of our most important environmental laws. Defeat the previous question so we have the opportunity to reverse this environmental outrage.

□ 1200

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman for yielding me time. I think it is clear now that as we enter this new century that we entered with such great optimism a few months ago that this century is going to be as dangerous as the last one in which we lost 619,000 Americans killed in battlefields around the world.

Going into this new century, it is more important than ever that we develop what I would call broad military capability. And that means that we, and I think Democrats and Republicans on the Committee on Armed Services understood and marked up a bill, that toward those ends that we must have the ability to deter and, if necessary, to fight a number of different types of conflicts. That means that we have to be able to stop a conventional armored attack like the one that was launched by Saddam Hussein in the Gulf War. We have to be able to handle a guerilla warfare operation. Obviously we have to be able to handle a terrorist and to deal a blow to those who would strike us on our homeland. We have to stop this new threat, this emerging threat of incoming ballistic missiles, the first of which killed our troops in the Gulf War almost a decade ago, in fact, more than a decade ago. So we have to have broad military capability. We cannot have a specialty military like a lot of our allies have. That means we have to spend money.

I think, frankly, the chairman of the Subcommittee on Military Procurement of the Committee on Armed Services, the gentleman from Pennsylvania (Mr. WELDON), did correctly state that we are behind the curve in terms of modernization. If we replaced all the tanks, trucks, ships and planes on a steady-state basis that are now aging, we would be spending an additional $30 billion a year on national security. We have turned the corner. We have made the down payment. We are expensing about $71.8 billion this year, although we have a baseline of about 90 that we should be achieving.

Now we should also perhaps be spending a little bit more money on missile defense, in my estimation. But we do have a pretty good tranche of money in there. We have a good guy, General Kadish, who is working this program, who will be accountable to this Congress, who is going to throw out the losers and he will award the winners in missile defense, those systems that work. And so we are on a pretty good track there.

Lastly, we do some good stuff for our people, and our people in this ongoing war, this conflict we are fighting right now, have proven to be, as usual, our greatest assets. We have the 4.1 percent pay raise. We have more targeted to certain areas where we need a little more help, but all in all we do a pretty good job for our people. So people, modernization, the ability to defend against incoming ballistic missiles, and some good money on some new technology in the future with R&D is in this package. Please support this package. It is the right thing. And every Member should remember as we vote this bill today, we are in a war right now. We need to get the tools that our military needs, that the President needs to carry out this mission. Please vote this bill up, vote the rule and vote the bill.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, this bill illustrates an apparent Republican principle, namely, that there should be an inverse relationship between one's commitment to practicing democracy at home and exporting it abroad. We are doing a great deal to try and advance democracy overseas, but here we are engaging in a travesty of democratic debate being shut down.

We will have spent today in this Chamber more time honoring the former Members than we will have in debating any single aspect of military policy. Now, former Members are wonderful. Many of us some day hope to be former Members, but to put that ahead of debating environmental policy, nuclear policy level of spending makes no sense. A number of very important issues have been, by the Republican leadership, excluded from today's debate. Why? We were scheduled to meet tomorrow, but Members have now apparently been told that we should put aside any further debate on these issues. A free day tomorrow is more important than thorough debate today. The notion that you take this enormous chunk of the budget, all of these important issues, and cram them into one part of the day, is a travesty of democracy unworthy of the people's House.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. THORNBERRY).

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

Mr. Speaker, I think it may be appropriate at this stage to say a few words about the context in which we are considering this defense authorization bill this year, for it is truly different than the context, the environment, the international situation in which we have considered it in previous years.

The United States is currently engaged in a war. We have troops in the field. And for probably the first time in our history, every American community is a potential target for our enemy. And I think it is important that as the urgency we all felt from September 11 begins to fade away and we have a drift, perhaps, back towards complacency, that we remember that our enemy in this situation is very dangerous, indeed. Their aim is to kill as many Americans as they possibly can.

Mr. Speaker, the President gave an important speech I believe at the Citadel last December when he said, ''The great threat to civilization is that a few evil men will multiply their murder and gaining the means to kill on a scale equal to their hatred.''

Mr. Speaker, I think that has profound implications for us. We have faced evil in the world before. We have faced an evil system with the means to destroy us before during the Cold War. But never before have we faced a situation where a few evil men could gain the means to kill on a scale equal to their hatred. And I think that as a backdrop to everything that we are considering, whether it is pay and benefits, whether it is certain particular weapons systems we ought to buy, whether it is a defense policy regarding some issues or other issue or other, we ought to keep this context in mind and the dangers that we face.

In addition to the war on terrorism, we have very serious tension in the Middle East. We have continuing tension between India and Pakistan, two nuclear powers. We continue to have difficulties and issues with North Korea. Of course, China and Russia are of concern. And that is the international situation in which we find ourselves.

This bill, I believe, will help make us stronger. It takes some important steps towards defining the Department of Defense's role in protecting our homeland security. It takes some important steps towards transforming our military so that we are ready to face the challenges of the future, not refight the wars of the past. Things like joint training and experimentation are talked about here. But, Mr. Speaker, I think more important than any of these particulars is the necessity for this House to take this with all the seriousness which the international situation demands.

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

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

Mr. SPRATT. Mr. Speaker, I have served in the House for 20 years and for 20 years I have served on the House Committee on Armed Services. I speak from experience and mince no words when I say this rule is an outrage, nothing less than that. In the 1980s when I also served here, we had another enormous buildup in our national defense. And every year when we came

to the floor with this defense authorization bill, we would have 100 to 200 amendments filed to the Committee on Rules, and we bent over backwards to make most of them in order. We had a full, fair and free debate in the well of this House. It was a free market idea, but it is no more.

We lived in those days up to article 1, clause 8, the solemn responsibility the Constitution gives us. We gave these issues serious consideration. The consideration they merit.

We had another tradition that somehow has been lost in the last 5 or 6 years. Senior members of the committee with experience were given deference on the Committee on Rules. If we brought amendments to be considered, the Committee on Rules would give some weight to the fact that we had some experience on the committee.

I brought four rules. I did not abuse the privilege. I brought four amendments to the Committee on Rules yesterday and asked that they be made in order. One was an amendment that was made at the behest of the Department of Defense. Another one was an amendment that was made in order because also another amendment, a second order amendment, was made in order that would change it to the liking of the gentleman from California (Mr. HUNTER). I will support that amendment, but that really makes it his rather than mine.

The two other amendments that I sought were important amendments. Neither was made in order. Now they made in order amendments for noncommittee members. But when the gentleman from Maine (Mr. ALLEN), who is a member of the committee, asked for an amendment, he was stiffed. The gentlewoman from California (Mrs. TAUSCHER) was stiffed. I was stiffed. Noncommittee members who offered amendments that they thought might be ''got you'' amendments, they went ahead and made in order, but not ours which were seriously considered and we wanted an open and free debate on those issues. One was nuclear testing.

I sense a slow, subtle about-face in our policy of moving away from nuclear weapons, particularly tactical nuclear weapons, particularly early to use nuclear weapons towards nuclear weapons and even a resumption of nuclear testing. That may be the right policy. It may be the wrong policy. In any event, it is a serious policy issue.

As we make this move subtly, we should have a full, free, fair and open debate. And all I wanted to say was, Mr. President, by virtue of this act, we ask you solemnly for 12 months notice before you make the decision to resume nuclear testing.

As a matter of fact, it will not impede in any way the resumption of nuclear testing. DOE says it will take them today 24 to 36 months. But it would allow us 1 authorization appropriations cycle before that solemn decision was finally taken. We would have an opportunity to register opposition. We will be a full partner in what I think is a fundamentally serious decision. That amendment was not made in order. This is a rigged rule. It shuts out debate. It makes a mockery of the Constitution. Vote against the previous question, vote against the rule.

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

Just a point of clarification, Mr. Speaker. There is a Tauscher amendment that is allowed and there were 10 Democrat amendments, 3 bipartisan, and 12 Republican.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of the rule and to draw attention to a part of H.R. 4546 that is critical in helping to protect the environment and keeping America's commitment to care for our Nation's reserve fleets, also known as the Ghost Fleet, located in the James River.

MARAD is mandated to dispose of all national defense reserve fleet ships by September 30, 2006. The authorization relating to ship disposal and scrapping for the Maritime Administration is of critical importance. I am happy to report that the merchant marine panel, with my strong support, just authorized 20 million to more quickly dispose of surplus vessels that cause serious potential danger to our environment. I would like to see more dollars allocated to this national priority, but after zero dollars in fiscal year 2002, I believe this funding puts us back on track to rid our fleet of these aging ships.

Additionally, this measure also allows for financial assistance to environmentally mitigate and reef these same vessels. We must begin to think out of the box to solve this looming problem. Cleaning, then reefing, these ships will create cost savings and will allow us to scrap them more rapidly. We have to work toward the September 30, 2006 deadline and to encourage adequate funding this year to get the job done.

Mr. Speaker, I would like to thank our distinguished Committee on Armed Services chairman, the gentleman from Arizona (Mr. STUMP), and especially thank the gentleman from California (Mr. HUNTER) of the maritime marine panel for his work on this matter. I say thank you, Mr. Speaker. I support the rule and I ask all of my colleagues to support this authorization.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me time and for his courtesy.

Mr. Speaker, I stood on the floor earlier this morning and heard our distinguished Republican leader extol the institution of this House to the former Members. Then our first order of business following that ceremony is a rule on defense authorization that continues the march of marginalization of this Chamber. There is, Mr. Speaker, a national debate raging about defense policy in this country. It is healthy, it is appropriate, and we all have strong feelings about it, their concern about the nature, extent and direction of national defense, but not on the floor of this Chamber.

I have offered an amendment, for instance, to strike funding for the Crusader. Along with the gentleman from Texas (Mr. THORNBERRY) and the Secretary of Defense, we have deep concerns about this. I would hope that we spend this money cleaning up the thousands of sites across the country that are polluted with military toxics and unexploded ordinance which killed two of our servicemen in this country a few weeks ago. But, no, due to this rule and the management of this piece of legislation, we are going to remain silent. I think that is sad, Mr. Speaker. I expect better from this Chamber.

□ 1215

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

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, according to the GAO and Secretary Rumsfeld, the Pentagon cannot account for $1 trillion, T-trillion, of expenditure and acquisition costs over the last decade, a bookkeeping shambles that makes Arthur Andersen and Enron look somewhat respectable.

So what is the response in this United States House of Representatives, the people's House, in considering this bill for 1 year, $43 billion increase for a budget that will total more than $400 billion? Hear no evil, see no evil and speak no evil.

No amendment to question any Pentagon program, no matter how behind schedule, overbudget or unneeded, will be allowed. It is an expensive debate, $833 million a minute, but not extensive in examining the priorities, waste and abuse at the Pentagon.

I hoped to offer a number of amendments for troubled programs, particularly one on the $12 billion Cold War-era artillery system Crusader that Secretary Rumsfeld says is not needed and he wants to kill, but it will not be allowed nor will an amendment on the F–22, the Comanche.

Stifling debate does not constitute national security readiness for this country. I believe it does a disservice to the people in uniform, those who go without necessities while we put on pedestals gold-plated turkeys.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. SHOWS).

Mr. SHOWS. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me the time.

Mr. Speaker, I rise in opposition to the rule governing the debate on the

National Defense Authorization Act. No one in this Chamber is a stronger advocate for the military than I am, and I intend to vote for final passage of the defense bill; but the rule prevents us from having an honest debate of two amendments that were offered by myself and the gentleman from Mississippi (Mr. TAYLOR).

First, the defense bill includes a requirement for a GAO report on the current state of health care under TRICARE. Mr. Speaker, if we have another study on health care for our military retirees, we will not have any left.

Too often retirees cannot get timely health care at military bases because TRICARE's space-available provisions send them to the end of the line. Other retirees who do not live near bases have difficulty in finding private doctors who will accept TRICARE, and the system often requires our sick and elderly to travel long distances to military doctors and bases.

My amendment would have replaced the GAO study with real health care alternatives by inserting the text of H.R. 179, Keep Our Promise to America's Military Retirees Act. It would enhance the ability to participate in the same health care system that Federal and congressional retirees can elect. My amendment is fair and does not create another bureaucracy. H.R. 179 has 317 cosponsors in this House, including most of the Members on the Committee on Rules, but the Committee on Rules will not let us debate it.

The Committee on Rules has also struck down the gentleman from Mississippi's (Mr. TAYLOR) amendment to put off another round of base closures. This is no time to be shutting down our military bases when we are engaged in war. When we have shut down bases in the past, we have also shut down military health care for our Mississippians and all over the country. Thousands of active and retired families who depend on the Meridian Naval Air Station and Columbus Air Force Base, among others, for their health care, these and many other facilities could face closures; but the Committee on Rules will not even let us talk about it.

Mr. Speaker, we need to debate these issues today, but the rule does not allow it. So I urge my colleagues to vote ''no'' on this rule. Tell the Committee on Rules that military health care is an essential component of national defense.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia (Mr. RAHALL).

(Mr. RAHALL asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. RAHALL. Mr. Speaker, I do rise in opposition to the rule in its present form and urge Members to vote to defeat the previous question so that amendments to strike anti-environmental riders may be offered.

Along with the distinguished dean of the House, the gentleman from Michigan (Mr. DINGELL), and eight of our colleagues, we filed an amendment to strike the unwise exemptions to the Migratory Bird Treaty Act and the Endangered Species Act, which have been attached to this important bill. Unfortunately, the Committee on Rules did make our amendment in order, even though I am the ranking member of the Committee on Resources, whose jurisdiction has been abused by this bill.

This rule adds insult to injury. Not only has Resources been excluded from the process, but meaningful public hearings have not been held on these important issues. Members will be denied a fair opportunity to debate and vote on these important issues under the rule in its present form, but if we defeat the previous question, the amendment to strike these objectionable anti-environmental exemptions may be offered.

We should not sanction this bill's sneak attack on our environmental laws. This is not a fair rule, and I ask Members to defeat the previous question.

STRIKE THE ANTI-ENVIRONMENTAL RIDERS ON DOD AUTHORIZATION VOTE TO DEFEAT THE PREVIOUS QUESTION ON THE RULE

DEAR COLLEAGUE: We urge you to vote to defeat the previous question on the rule for the Bob Stump National Defense Authorization Act for FY 2003 (H.R. 4546) so that amendments may be offered to strike anti-environmental riders. This legislation—while important to our national security and military preparedness—has been misused as a vehicle to bypass committee jurisdiction and public process in order to create unprecedented and unwarranted exemptions to key environmental laws.

We would clearly have preferred that Members have the opportunity to vote directly to remove the harmful environmental provisions from H.R. 4546. But the Committee on Rules has refused to give Members that choice. Our amendment, which was cosponsored by eight of our colleagues, would have strategically stricken both section 311 and section 312, which unwisely exempt DoD from compliance with the Migratory Bird Treaty Act and the Endangered Species Act, respectively. Moreover, sweeping changes to these laws are unnecessary: Section 7 of the ESA specifically provides for a national security exemption (which DoD has never invoked) and DoD and the U.S. Fish and Wildlife Service are close to finalizing an administrative agreement to resolve Migratory Bird Treaty Act disputes.

In effect, proponents of these anti-environmental riders seek to accomplish through the back door of the Armed Services Committee and a closed rule what they could not through the front door of open public hearings and careful consideration in the regular legislative process. While we fully appreciate the importance of military training and readiness, we also do not think that DoD, in the very limited public process to date, has made the case that exemptions to important and long-standing environmental laws are necessary or that training is greatly impaired because of those laws.

In fact, GAO—in a soon to be a released report—will inform Congress that readiness data provided by the military does not indicate that environmental laws or other ''encroachment'' by urbanization has significantly affected training readiness. To the contrary, DoD continues to report high levels of training readiness at almost all units.

In our view, the House should not be stampeded into gutting key environmental laws based on illusory and inconclusive allegations by DoD. It defies logic that suddenly we should surrender to demands for new statutory exemptions so that the environment no longer matters to our largest and most powerful federal agency.

As longstanding proponents of these critical environmental laws, we urge you to vote ''no'' on the previous question on the rule on H.R. 4546.

Sincerely,

NICK J. RAHALL III,
Ranking Democratic Member, Committee on Resources.

JOHN D. DINGELL,
Ranking Democratic Member, Committee Energy and Commerce.

MIGRATORY BIRD TREATY ACT (MBTA) [SECTION 311 OF H.R. 4546]

The MBTA of 1918, one of our Nation's oldest and most enduring conservation statutes, sets forth U.S. obligations under the Convention for the Protection of Migratory Birds with Canada. It also provides implementing authority for subsequent Conventions with Mexico (1936), Japan (1972) and Russia (1976) which guide the cooperative conservation management of North America's migratory birds.

H.R. 4546 would unilaterally exempt military readiness activities from MBTA requirements. This would compromise U.S. international treaty obligations and could establish a negative precedent for other signatory nations to exempt their own activities from such obligations or consider other forms of retaliation.

This bill would grant the military an unprecedented, far less-restricted self-regulatory authority. No federal agency or state has such an authority.

H.R. 4546 would negatively affect migratory bird management. Removing military readiness and training activities from compliance with the MBTA would likely increase unreported incidental mortalities. Migratory bird population estimates might become far less accurate, the listing of endangered species could increase, and regulated hunting seasons could be delayed or made more restrictive.

A legislative ''fix'' is premature and unnecessary. Section 3 of the MBTA provides broad authority to the Secretary of the Interior to determine when the incidental ''taking'' of migratory birds is compatible and to develop regulations within the law's context. In fact, the Fish and Wildlife Service and Department of defense are close to finalizing a Memorandum of Agreement establishing an administrative process to resolve migratory bird disputes.

The U.S. has fought in two World War, the Korean War, Vietnam, and the Persian Gulf War with the MBTA in place. Since 1916 only one modification of this magnitude occurred (1997) and that was only after 20 years of negotiation.

ENDANGERED SPECIES ACT (ESA) [SECTION 312 OF H.R. 4546]

The ESA requires, with limited exceptions, the designation of critical habitat for all endangered or threatened species. Federal agencies are required to consult with the U.S. Fish and Wildlife Service (USFWS) under section 7 in order to avoid actions that destroy or adversely modify critical habitat.

H.R. 4546 would exclude military lands from critical habitat designation under the ESA, if an Integrated Natural Resources Plan (INRMP) has been developed.

Blanket legislative exemptions are not needed. Section 7 of the ESA already provides an exemption for any agency action for

reasons of national security. According to the USFWS, the Secretary of defense has never sought a section 7 exemption.

Critical habitat designation has also been precluded pursuant to ESA,. when concerns about the impacts on military training activities were raised.

It is the critical practice of the USFWS to consider excluding areas covered by INRMPs from critical habitat designation if certain conservation criteria are met. Contrary to DoD assertions, the Clinton Administration did not determine that installations with INRMPs were automatically excluded from critical habitat designation.

H.R. 4546 would require the USFWS to substitute an INRMP for critical habitat if ''such plan addresses special management considerations or protections'' with no further explanation or definition of this standard.

INRMPs do not provide the same level of protection as critical habitat designations.

The ESA has been in place since 1973. Our military maintained its readiness throughout the Cold War and trained for and executed Operation Desert Storm in 1991 during the Persian Gulf War with current laws in place.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, the House Committee on Armed Services does so much of its work on a bipartisan basis, but this rule is an outrage. The Republican leadership has allowed what will probably be about a dozen amendments not considered en bloc to a defense bill authorizing $393 billion.

In the past, under Democratic leadership, dozens of amendments over several days was the rule. Why so little debate permitted? So Members can go home tonight and not have to vote on Friday and not have to deal with controversial matters. Why so few amendments? So the American people will not hear what Democrats have to say.

The House Republicans are squeezing the life out of democratic debate in the people's House. They have blocked amendments to prevent exempting the Defense Department from our environmental laws. They rejected my amendment to stop the development of a proposal to use nuclear weapons to blow up missiles above American cities, a really dumb idea.

They barred amendments by the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from South Carolina (Mr. SPRATT) that would have led to a longer floor debate over the emerging Republican plans to develop and use on a first-strike basis new tactical nuclear weapons.

They blocked debate over aid to Colombia and base closings. When Republicans change our defense policies, change our environmental policies, change our nuclear policies without a full and fair debate, this country loses. Democrats and Republicans stand shoulder to shoulder in the war on terrorism. This rule makes a mockery of our unity. We are weaker as a country when the Republican majority in this House slams the door on a full and fair debate.

I urge my colleagues to defeat this rule, vote down this rule.

Mr. FROST. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Texas (Mr. FROST) has 3 minutes remaining, and the gentlewoman from North Carolina (Mrs. MYRICK) has 2½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2½ minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, the President's budget is a request for $98 million of the American taxpayers' dollars to defend a pipeline in Colombia owned by Occidental Petroleum through which Colombia National Oil Company oil flows. They had record profits last year, but the Colombia National Oil Company wants the American taxpayer to pay to defend it.

What is worse than that is the President is now trying to change the rules that limit American involvement in Colombia to less than 500 troops so that American troops, the sons and daughters of Mississippi, of Georgia, of Alabama can go defend a pipeline that the Colombians themselves will not defend. While the Colombians have cut their defense budget and made it easier to avoid military service there, they are working with our State Department to get American kids to go fight their war for them.

I think this House ought to vote on that. I think we ought to have a cap on the number of troops that serve in Colombia; and if the President wants to make the case for American kids to die in Colombia, let him come forward, and then let this House vote on it.

Number two, we are at war. Do my colleagues not think it would make sense not to close bases while we are at war? Do my colleagues not think it makes sense not to close commissaries and hospitals that our military retirees, who half of which live near a base, close them while these people are in their senior years? Do my colleagues not think it makes sense not to have every single person who works for the Department of Defense wondering whether or not they have a job tomorrow?

I have asked the Republican Congress for a vote to kill base closure because base closure has not saved one dime. We have not purchased one weapons systems with money from the base closures. We have given away the properties; and better than that, we spent $13 billion in taxpayers' money to clean up bases that used to be good for soldiers, but then we had to pay to clean them up before we gave them away to the local communities.

I urge my colleagues to vote against this rule so we can have an up or down vote as to whether or not American kids are going to die in Colombia.

I urge my colleagues to have an up or down vote on whether or not the base in the gentlewoman from North Carolina's (Mrs. MYRICK) State is going to close, the bases in the gentleman from California's (Mr. DREIER) State are going to close, the bases in the gentlewoman from Ohio's (Ms. PRYCE) State are going to close, whether or not the bases in Georgia, where the gentleman from Georgia (Mr. LINDER) who is on the Committee on Rules, are going to close, decide whether or not the gentleman from Florida's (Mr. GOSS) and the gentleman from Florida's (Mr. DIAZ-BALART) bases in Florida will close, decide whether or not the bases again that every single Member of this body represents, whether or not they are going to close.

Base closure has not saved the taxpayers of the United States one penny. It has not purchased one weapons system; and to make matters worse, we are now looking at spending money to replace the bases that we closed 3 years ago because the military realized they made a terrible mistake in closing bases like Cecil Field in Florida. As we are about to put the Joint Strike Fighter out in the field, we have now got to go out and buy property to replace the bases that we closed just a few years ago.

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

I urge Members to defeat the previous question. If the previous question is defeated, I will offer an amendment to the rule which will allow the House to consider a number of important amendments which Democratic Members proposed to this bill.

Mr. FROST. Mr. Speaker, I yield the remaining time to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

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

Mr. GEPHARDT. Mr. Speaker, I rise in strong opposition to this rule. Make no mistake about it, Democrats are in strong support of providing much-needed and deserved resources for our men and women in uniform in a time of war; and we stand with the President in the war against terrorism, which this legislation will allow us to wage more effectively in the year ahead.

There are a number of very important issues that deserve and need to be debated as we move our military into a new era. Republicans are using this bill to undermine the Endangered Species Act, the Migratory Bird Treaty, and the Wilderness Act. They refuse to accept input from the States, local communities, environmentalists, even the committee of jurisdiction over these environmental issues, the Committee on Resources, before action was taken on this bill. They are eroding environmental protections in a way that is completely inappropriate and unnecessary.

There are also critical nuclear policies that are being excluded from this debate like the future of nuclear testing, the direction of our national missile defense program, the funding for our non-proliferation programs in Russia and a host of other issues, including congressional oversight of military tribunals, U.S. policy toward Colombia,

and management and oversight of major procurement programs.

This is symptomatic of a pattern we have seen in the past months of a majority that wants to close down debate on issues that are critical to the American people. This has become a gag rule House, by a majority that is simply uninterested on the issue of free and fair debate. This Republican leadership shuts down debate on our alternative amendments in the pension reform bill.

Just a few weeks ago, they refused to make our amendments in order on the budget debate and they did not make the Moore substitute in order either in that debate; and months ago this leadership denied a responsible debate on campaign finance reform. They wanted to break the bill into pieces in an effort to sink it. So they forced the House to use a discharge petition just to get the bill on the floor with a fair process.

Then with the debt ceiling, the word is that we will not have a free and fair debate about how to deal with the misguided Republican economic program that was passed last year. Republicans are talking about tacking that bill on the supplemental appropriation.

Again, let us not have a debate, let us not even have a questioning, let us not have a free discussion of issues that affect Americans in their everyday lives.

I think this rule is an abomination. In the days before this, we always had pretty much an open rule on defense bills. There were times in the past that we have taken a week to consider a defense bill, and we allowed Republican and Democratic amendments alike. Let me tell my colleagues that these are important issues that people care about out in the country.

□ 1230

This House is being run with gag rules day in and day out. It must end. Vote against the previous question; vote against this rule. Let us let America into its own defense policy.

Mr. FROST. Mr. Speaker, I ask unanimous consent that the text of my proposed amendment be printed in the RECORD immediately before the vote on the previous question.

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

There was no objection.

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

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman for yielding me this time. I just wanted to follow the minority leader's comments with the observation that we are in a war right now. We have people on the battlefield whose survival depends on good training.

At many of our training bases around the United States, the environmental encroachments have become so strong that today at Camp Pendleton you can only use about a third of the training ground that is available. You have to build foxholes only where you have tape that has been laid out in an environmentally-sensitive manner. The Marines that replicate the Iwo Jima-type assault on the beaches have to dismount from the landing craft and get in buses and be bused up to an environmentally-acceptable point to where they can commence their assault to practice to give their lives to this country. Go to bases like Mountain Home Air Force Base in Idaho, where only one plane at a time can train on the training field, which is like having one football player on the team be allowed out on the field at the same time.

These are reasonable positions that we have taken, reasonable restrictions on the environmental laws to help our people stay alive on the battlefield.

Mrs. MYRICK. Mr. Speaker, I would like to inquire if the gentleman from Texas' time has expired.

The SPEAKER pro tempore. It has.

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

AMENDMENT TO HOUSE RESOLUTION 415

At the end of the resolution insert the following:

SEC. 6. Notwithstanding any other provision of this resolution, it shall be in order to consider, without intervention of any points of order, the amendments offered to the committee amendment in the nature of a substitute printed in section 7 of this resolution. Each amendment may be offered only by the proponent specified in section 7 or a designee, shall be considered as read, and shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent.

SEC. 7. The amendments described in section 6 are as follows:

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. HINCHEY OF NEW YORK

(For himself, Mr. Pallone of New Jersey, and Ms. Sanchez of California)

Strike title XIV (page 240, beginning line 14), relating to the Utah Test and Training Range.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. SHOWS OF MISSISSIPPI

Strike section 712 (page ____, lines ____ through ____) and insert the following new section:

SEC. 712. COVERAGE OF MILITARY RETIREES UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) EARNED COVERAGE FOR CERTAIN RETIREES AND DEPENDENTS.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8905, by adding at the end the following new subsection:

''(i) For purposes of this section, the term 'employee' includes a retired member of the uniformed services (as defined in section 101(a)(5) of title 10) who began service before June 7, 1956. A surviving widow or widower of such a retired member may also enroll in an approved health benefits plan described by section 8903 or 8903a of this title as an individual.''; and

(2) in section 8906(b)—

(A) in paragraph (1), by striking ''paragraphs (2) and (3)'' and inserting ''paragraphs (2) through (5)''; and

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

''(5) In the case of an employee described in section 8905(i) or the surviving widow or widower of such an employee, the Government contribution for health benefits shall be 100 percent, payable by the department from which the employee retired.''.

(b) COVERAGE FOR OTHER RETIREES AND DEPENDENTS.—(1) Section 1108 of title 10, United States Code, is amended to read as follows:

''§ 1108. Health care coverage through Federal Employees Health Benefits program

''(a) FEHBP OPTION.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to provide coverage to eligible beneficiaries described in subsection (b) under the health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5.

''(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An eligible beneficiary under this subsection is—

''(A) a member or former member of the uniformed services described in section 1074(b) of this title;

''(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G);

''(C) an individual who is—

''(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

''(ii) a member of family as defined in section 8901(5) of title 5; or

''(D) an individual who is—

''(i) a dependent of a living member or former member described in section 1076(b)(1) of this title; and

''(ii) a member of family as defined in section 8901(5) of title 5.

''(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes any dependent of the member or former member who is a family member for purposes of such chapter.

''(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D)) as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under this section.

''(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

''(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

''(6) An eligible beneficiary who enrolls in the Federal Employees Health Benefits program under this section shall not be eligible to receive health care under section 1086 or section 1097. Such a beneficiary may continue to receive health care in a military medical treatment facility, in which case the treatment facility shall be reimbursed by the Federal Employees Health Benefits program for health care services or drugs received by the beneficiary.

''(c) CHANGE OF HEALTH BENEFITS PLAN.—An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change health benefits plans and coverage in the same manner as any other Federal Employees Health Benefits program beneficiary may change such plans.

''(d) GOVERNMENT CONTRIBUTIONS.—The amount of the Government contribution for an eligible beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section may not exceed the amount of the Government contribution which would be payable if the electing beneficiary were an employee (as defined for purposes of such chapter) enrolled in the same health benefits plan and level of benefits.

''(e) SEPARATE RISK POOLS.—The Director of the Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 to maintain a separate risk pool for purposes of establishing premium rates for eligible beneficiaries who enroll in such a plan in accordance with this section.''.

(2) The item relating to section 1108 at the beginning of such chapter is amended to read as follows:

''1108. Health care coverage through Federal Employees Health Benefits program.''.

(3) The amendments made by this subsection shall take effect on January 1, 2003.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. HASTINGS OF FLORIDA

In section 107, relating to the Defense Health Program (page ____, after line ____)—

(1) insert ''(a) AUTHORIZATION OF APPROPRIATIONS.—'' before ''Funds''; and

(2) by adding at the end the following:

(b) INCREASE IN HEALTH CARE SERVICES FOR MILITARY RETIREES AND DEPENDENTS.—The amount provided in subsection (a) is hereby increased by $2,500,000, and the total amount of the increase shall be available for procurement for carrying out health case programs, projects, and activities for retired members of the Armed Forces and their dependents.

(c) OFFSETTING REDUCTION.—The amount provided in section 105 for the Inspector General of the Department of Defense is hereby reduced by $100,000, and the amount provided in section 301(24) for Support for International Sporting Competitions is hereby reduced by $2,400,000.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. DEFAZIO OF OREGON

Page 34, after line 11, insert the following new subsection:

(f) LIMITATION ON AWARDING OF CONTRACT FOR LOW-RATE INITIAL PRODUCTION.—The Secretary of the Army may not award a contract for low-rate initial production for the RAH–66 Comanche aircraft program until the Secretary of Defense, after receiving the views of the Director of Operational Test and Evaluation, submits to the congressional defense committees the Secretary's certification of each of the following:

(1) That the plan in the engineering and manufacturing development phase of the program is adequate for determining the operational effectiveness and suitability of the Comanche aircraft before the start of full-rate production.

(2) That the Comanche program has made adequate progress in development flight testing to date and is on a clear track to demonstrate in operational flight testing, before the start of full-rate production, that the aircraft can meet the following key performance parameters:

(A) Vertical rate of climb.

(B) Night target acquisition range.

(C) Radar cross section signature.

(D) Infrared engine exhaust signature.

(E) Digital communications with joint and combined arms forces.

(3) That the Comanche can be produced within cost, schedule, and quality targets.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. DEFAZIO OF OREGON OR MR. FRANK OF MASSACHUSETTS

At the end of subtitle B of title II (page 45, after line 19), insert the following new section:

SEC. 217. LIMITATION ON OBLIGATION OF FUNDS FOR CRUSADER ARTILLERY PROGRAM.

(a) LIMITATION.—None of the funds authorized to be appropriated for fiscal year 2003 for research, development, test, and evaluation for the Crusader artillery program of the Army may be obligated until the Secretary of Defense, in consultation with the Secretary of the Army and the Director of Operational Test and Evaluation, submits to the congressional defense committees a certification of the Secretary of Defense's continued support for the program and a report that includes each of the following:

(1) An assessment of the extent to which critical Crusader technologies have not been demonstrated, at the component and subsystem level, in an operational environment (also known as technology readiness level 7), and the effect that the status of technology testing will have on the milestone B decision for the Crusader artillery program.

(2) An assessment of the effect that the weight of the Crusader and its resupply vehicle will have on the ability to transport the system to remote battlefields, including an assessment of the importance of deploying two Crusader howitzers on a single C–17 aircraft.

(3) An assessment of the effect of weight reductions on the cost of the Crusader and its ability to meet performance requirements.

(4) A determination of the potential capabilities and timing for deployment of the initial version of the Future Combat Systems and the implications of those capabilities and deployment schedule on the Crusader's utility to the Army.

(5) An analysis, in consultation with the Secretary of the Air Force, comparing the ability of the Crusader to carry out its mission with the ability of aircraft using smart bombs, global positioning systems, and on-the-ground human spotters to carry out that same mission, including an assessment of the utility of the Crusader, compared with the utility of such aircraft, to combat likely future threats given the force structure of the enemy and the terrain in which they operate.

(6) An assessment of the effect of the Army's plans to award contracts for low-rate initial production for the Crusader less than one-fourth of the way through the prototype testing schedule on the cost of the Crusader and its ability to meet performance requirements.

(7) An assessment of the extent to which the automation of the major functions of the Crusader (including aiming, loading, and firing the cannon, managing inventory (projectiles and propellant), and resupplying the howitzer with fuel and ammunition) exposes the entire system to inoperability due to software problems, including an analysis of the extent to which the software has been tested under operational conditions and an analysis of the challenges faced by the crew in repairing potential software glitches in battlefield conditions.

(b) GAO EVALUATION.—Not later than 60 days after the Secretary of Defense submits the report under subsection (a), the Comptroller General shall submit to the congressional defense committees an evaluation of the report.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. DEFAZIO OF OREGON OR MR. STARK OF CALIFORNIA

At the end of subtitle A of title II (page 31, after line 9), insert the following new section:

SEC. ____. TERMINATION OF FUNDING FOR THE CRUSADER ARTILLERY PROGRAM.

The amount provided in section 201(1) for the Army is hereby reduced by $475,200,000, to be derived from amounts for the Crusader artillery program.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. DEFAZIO OF OREGON

At the end of subtitle C of title I (page 23, after line 5), insert the following new section:

SEC. ____. LIMITATION ON F–22 AIRCRAFT LOW-RATE INITIAL PRODUCTION.

The amount provided in section 103(1) for procurement of aircraft for the Air Force is hereby reduced by $1,812,000,000, to be derived by reducing the number of F–22 aircraft authorized for low-rate initial production from 23 to 13.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. DEFAZIO OF OREGON

At the end of subtitle C of title I (page 23, after line 5), insert the following new section:

SEC. 122. F–22 RAPTOR FIGHTER AIRCRAFT PROGRAM.

(a) REQUIREMENT FOR REASSESSMENT OF THE COST OF THE F–22 WITH A REPORT TO CONGRESS.—The Secretary of the Air Force shall reassess the cost to complete the development program for the F–22 Raptor fighter aircraft. The Secretary shall submit to Congress, as a supplement to the fiscal year 2004 budget, information on any amount that the Secretary determines would be necessary for that development program in addition to the amount of $21,000,000,000 previously reported to Congress as the amount for that program.

(b) REQUIREMENT FOR MONITORING KEY MANUFACTURING PROCESSES.—The Secretary of the Air Force shall direct the program office for the F–22 aircraft program to monitor the status of key manufacturing processes for that program by collecting statistics on the percentage of key manufacturing processes in control as the program continues to proceed toward high-rate production. As part of the report required in subsection (a), the Secretary shall provide the congressional defense committees with the statistics, and an analysis of the statistics, collected under this subsection.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. HOEFFEL OF PENNSYLVANIA

At the end of title X (page 218, after line 15), insert the following new subtitle:

Subtitle D—Review of Regulations Relating to Military Tribunals

SEC. 1041. SHORT TITLE.

This subtitle may be cited as the ''Military Tribunal Regulations Review Act''.

SEC. 1042. CONGRESSIONAL REVIEW.

(a) PROCEDURES REQUIRED.—(1) Before a military tribunal rule takes effect, the President shall submit to Congress a report containing—

(A) a copy of the military tribunal rule;

(B) a concise general statement relating to the military tribunal rule; and

(C) the proposed effective date of the military tribunal rule.

(2) A military tribunal rule with respect to which a report is submitted under paragraph (1) shall take effect on the latest of the following:

(A) The last day of the 60-day period beginning on the submission date for that rule.

(B) If the President, having been presented with a joint resolution of disapproval with respect to that rule, returns the joint resolution without his signature to the House in which it originated, together with his objections thereto, the date that is—

(i) the date on which either House, having proceeded to reconsider the joint resolution, votes on and fails to pass the joint resolution, the objections of the President to the contrary notwithstanding; or

(ii) if earlier, the date that is 30 days after the date on which the joint resolution, with the President's objections thereto, was returned by the President to the House in which it originated.

(C) The date on which the military tribunal rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval is enacted).

(3) Notwithstanding paragraph (2), the effective date of a military tribunal rule shall not be delayed by operation of this subtitle beyond the date on which either House of Congress votes to reject a joint resolution of disapproval.

(b) EFFECT OF DISAPPROVAL.—(1) A military tribunal rule shall not take effect (or continue) if a joint resolution of disapproval with respect to that military tribunal rule is enacted.

(2) A military tribunal rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new military tribunal rule that is substantially the same as such a military tribunal rule may not be issued, unless the reissued or new military tribunal rule is specifically authorized by a law enacted after the date of the enactment of the joint resolution of disapproval with respect to the original military tribunal rule.

(c) DISAPPROVAL OF RULES THAT HAVE TAKEN EFFECT.—Any military tribunal rule that takes effect and later is made of no force or effect by the enactment of a joint resolution of disapproval shall be treated as though such military tribunal rule had never taken effect, except that a trial of a person pursuant to such rule that is being carried out before the enactment of such joint resolution of disapproval shall continue to be carried out as though such military tribunal rule remains in effect.

(d) RULE OF CONSTRUCTION.—If the Congress does not enact a joint resolution of disapproval with respect to a military tribunal rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such military tribunal rule, related statute, or joint resolution of disapproval.

(e) JOINT RESOLUTION OF DISAPPROVAL DEFINED.—For purposes of this section, the term ''joint resolution of disapproval'' means a joint resolution introduced on or after the date on which a report referred to in subsection (a)(1) is received by Congress, the title of which is ''Joint Resolution disapproving the rule submitted by the President on ____, relating to military tribunals'', containing no whereas clauses, and the matter after the resolving clause of which is as follows: ''That Congress disapproves the rule submitted by the President on ____, relating to military tribunals, and such rule shall have no force or effect.'' (The blank spaces being appropriately filled in).

SEC. 1043. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''military tribunal'' means a military commission or other military tribunal (other than a court-martial).

(2) The term ''military tribunal rule'' means the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy, or describing the organization, procedure, or practice requirements of a Department or agency, with regard to carrying out military tribunals.

SEC. 1044. JUDICIAL REVIEW.

No determination, finding, action, or omission under this subtitle shall be subject to judicial review.

SEC. 1045. REPORTING REQUIREMENTS FOR MILITARY TRIBUNALS.

(a) IN GENERAL.—(1) Subchapter XI of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) is amended by adding at the end the following new section:

''§ 940a. Art. 140a. Reports to Congress on military tribunals

''(a) For each military tribunal, the President shall submit to Congress periodic reports on the activities of that military tribunal. The first such report with respect to a military tribunal shall be submitted not later than six months after the date on which the military tribunal is convened and shall include an identification of the accused and the offense charged. Each succeeding report with respect to a military tribunal shall be submitted not later than six months after the date on which the preceding report was submitted.

''(b) A report under this section shall be submitted in unclassified form, but may included a classified annex.

''(c) In this section, the term 'military tribunal' means a military commission or other military tribunal (other than a court-martial).''.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

''940a. 140a. Reports to Congress on military tribunals.''.

(b) EFFECTIVE DATE.—Section 940a of title 10 United States Code, as added by subsection (a), shall apply with respect to any military tribunal covered after, or pending on, that date of the enactment of this subtitle. In the case of a military tribunal pending on the date of the enactment of this subtitle, the first report required by such section shall be submitted not later than six months after the date of the enactment of this subtitle.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. TAYLOR OF MISSISSIPPI

In section 1206, relating to the limitation on number of military personnel in Colombia, strike subsections (c) and (d) (page ____, beginning line ____).

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. TAYLOR OF MISSISSIPPI

At the end of title XXVIII (page ____, after line ____), insert the following new section:

SEC. ____. REPEAL OF AUTHORIZATION OF ADDITIONAL ROUND OF BASE REALIGNMENTS AND CLOSURES IN 2005.

Effective as of December 28, 2001, the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) is amended by striking title XXX and the amendments made by that title relating to the realignment and closure of military installations.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. DEFAZIO OF OREGON OR MR. PAUL OF TEXAS

At the end of title X (page 218, after line 15), insert the following new section:

SEC. ____. SENSE OF CONGRESS RELATING TO CONGRESSIONAL WAR POWERS UNDER THE CONSTITUTION.

(a) FINDINGS.—Congress finds the following:

(1) Among the powers granted to Congress by the Constitution are the following:

(A) The power to declare war.

(B) The power to lay and collect taxes and to pay the debts and provide for the common defense and general welfare of the United States.

(C) The powers to raise and support armies, to provide and maintain a navy, to make rules for the government and regulation of the land and naval forces, to provide for calling forth the militia to execute the laws of the United States, to suppress insurrections and repel invasion, to provide for organizing, arming, and disciplining the militia, and for governing such part of the militia as may be employed in the service of the United States.

(D) The power to make all laws necessary and proper for carrying into execution not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(E) The power of the purse (''No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law'').

(2) Section 2(c) of the War Powers Resolution (50 U.S.C. 1541(c)) states that the President has constitutional authority to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, only pursuant to a declaration of war, specific statutory authority, or a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

(3) In response to the terrorist attacks against the United States that occurred on September 11, 2001, section 2(a) of Public Law 107–40 provides limited authorization to the President ''to use all necessary and appropriate force against those nations, organizations, or persons [the President] determines planned, authorized, committed, or aided the terrorist attacks . . . or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that deployment of elements of the Armed Forces into hostilities outside the United States or into situations where imminent involvement in hostilities outside the United States is clearly indicated by the circumstances should be made only in accordance with the powers granted to Congress by the Constitution as described in subparagraphs (A) through (E) of subsection (a)(1) and relevant provisions of law.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MRS. TAUSCHER OF CALIFORNIA

At the end of subtitle C of title XXXI (page 352, after line 24), insert the following new section:

SEC. 3146. INTERNATIONAL DEMONSTRATION PROJECT ON IMPROVING PROTECTION OF NUCLEAR MATERIALS IN FOREIGN COUNTRIES.

(a) PROJECT REQUIRED.—In carrying out the materials protection, control, and accounting program of the Department of Energy, the Secretary of Energy shall carry out a demonstration project under this section to improve the level of physical protection of nuclear materials in facilities, whether military or civilian, of foreign countries.

(b) PARTICIPATING COUNTRIES.—The Secretary shall select not more than three foreign countries for participation in the demonstration project required by this section. The Secretary may not select a country that was included within the former Soviet Union for participation.

(c) ELEMENTS.—The demonstration project required by this section shall include the

first two, and may include all three, of the following elements:

(1) During the first three months of such demonstration project, providing training to local experts in physical protection of nuclear materials, including an exchange of best practices.

(2) During the first 12 months of such demonstration project, implementation of basic improvements, such as upgrading doors and windows, installing barriers, and blocking nonessential doors and windows.

(3) During the first 24 months of such demonstration project, implementation of extensive improvements, such as upgrading the perimeter, installing sensors, implementing personnel access procedures, and providing training in the operation of new equipment and procedures.

(d) FUNDING.—(1) The amount provided in section 3101 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security is hereby increased by $10,000,000, to be available to carry out this section.

(2) The amount provided in section 201(4) for Research, Development, Test, and Evaluation, Defense-Wide, is hereby increased by $10,000,000, to be derived from program element 0603880C.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MRS. TAUSCHER OF CALIFORNIA AND MR. ALLEN OF MAINE

Strike section 1021 (page 210, line 2, through page 211, line 20) and insert the following new section 1021:

SEC. 1021. SENSE OF CONGRESS ON MAINTENANCE OF A RELIABLE AND SECURE STRATEGIC DETERRENT.

It is the sense of Congress that, consistent with the national defense strategy delineated in the Quadrennial Defense Review dated September 30, 2001 (as submitted under section 118 of title 10, United States Code), the global strategic environment, and the commitments of the United States to the arms control regimes to which the United States is a party, the President should, to ensure the national security of the United States and advance the foreign policy goals and vital interests of the United States, take the following actions:

(1) Maintain an operationally deployed strategic force of not less than 1,700 operationally deployed nuclear weapons, unless determined otherwise by a subsequent Nuclear Posture Review and or through negotiated bilateral or multilateral agreements.

(2) Dismantle as many nuclear weapons that are not in the operationally deployed forces of the United States as possible, consistent with—

(A) the commitments of the United States under bilateral and multilateral agreements; and

(B) effective execution of the Single Integrated Operational Plan.

(3) Develop advanced conventional weapons and enhanced intelligence to provide better capability for destroying—

(A) hard and deeply buried targets; and

(B) enemy weapons of mass destruction and the development and production facilities of such enemy weapons.

(4) Report to Congress on any plans to shorten the lead time and enhance the capability to conduct underground testing of nuclear weapons, and, in the case of plans to shorten the lead time to conduct such testing, include an assessment of cost, effect on the global strategic environment, and projected technical scientific benefits associated with such plans.

(5) Ensure, through the stockpile stewardship and management program, that the United States nuclear weapons arsenal remains as safe and reliable as possible.

(6) State that the United States remains committed to its obligations under the Non-Proliferation Treaty to reduce its nuclear weapons arsenal in order to discourage the spread of nuclear weapons to non-nuclear states.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. SPRATT OF SOUTH CAROLINA

At the end of subtitle C of title XXXI (page 352, after line 24), insert the following new section:

SEC. 3146. PRESIDENTIAL NOTIFICATION TO CONGRESS BEFORE RESUMPTION OF UNDERGROUND TESTING OF NUCLEAR WEAPONS.

(a) NOTIFICATION OF FIRST TEST.—(1) Not less than 12 months before the United States first conducts an underground test of a nuclear weapon after the date of the enactment of this Act, the President shall submit to Congress a report on the resumption by the United States of the conduct of such tests. The report shall include each of the following:

(1) The date on which the President intends the first such test to be conducted.

(2) The President's certification that the national security of the United States requires that the United States resume conducting such tests, and an explanation of the reasons why the national security so requires.

(3) An assessment of the expected reactions of other nations to the resumption by the United States of the conduct of such tests.

(b) REPORT ON TEST READINESS.—Not later than March 1, 2003, the Secretary of Energy shall submit to Congress a report on the options for reducing the amount of time required to conduct an underground test of a nuclear weapon after a decision to conduct such a test is made. The report shall include the following:

(1) The findings of the study carried out by the Department of Energy in fiscal year 2002 that examined such options.

(2) The assessment of the Secretary as to whether reducing such amount of time to less than 24 to 36 months is feasible.

(3) The technical challenges and requirements associated with reducing such amount of time to less than 24 to 36 months.

(4) The cost, during the period from fiscal year 2003 to 2012, associated with reducing such amount of time to less than 24 to 36 months.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. SPRATT OF SOUTH CAROLINA

At the end of subtitle C of title XXXI (page 352, after line 24), insert the following new section:

SEC. 3146. TRANSFER OF FUNDS TO PROVIDE INCREASE IN AMOUNTS FOR DEFENSE NUCLEAR NONPROLIFERATION.

(a) INCREASE FOR DEFENSE NUCLEAR NONPROLIFERATION.—The amount in section 3101 for defense nuclear nonproliferation is hereby increased by $10,000,000, to be available only for Russian surplus fissile materials disposition.

(b) OFFSETTING REDUCTION.—The amount in section 201(4) for the Missile Defense Agency is hereby reduced by $10,000,000, to be derived from program element 0603880C, Ballistic Missile Defense System Segment.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. ALLEN OF MAINE AND MR. SPRATT OF SOUTH CAROLINA

At the end of subtitle C of title II (page 49, after line 17), insert the following new section:

SEC. 234. PROHIBITION ON DEVELOPMENT AND DEPLOYMENT OF NUCLEAR-TIPPED BALLISTIC MISSILE INTERCEPTORS.

(a) STATEMENT OF POLICY.—It is the policy of the United States not to develop or deploy nuclear-tipped ballistic missile interceptors.

(b) PROHIBITION ON USE OF FUNDS.—No funds appopriated or otherwise made available to the Department of Defense or the Department of Energy may be obligated or expended to develop or deploy a nuclear-tipped ballistic missile interceptor.

(c) DEFINITION.—In this section:

(1) The term ''nuclear-tipped ballistic missile interceptor'' means a ballistic missile defense system that employs a nuclear detonation to destroy an incoming missile or reentry vehicle.

(2) The term ''develop'' includes any activities referred to in section 179(d)(8) of title 10, United States Code, more advanced than feasibility studies.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. EDWARDS OF TEXAS

At the end of subtitle C of title XXXI (page 352, after line 24), insert the following new section:

SEC. 3146. TRANSFER OF FUNDS TO PROVIDE ADDITIONAL AMOUNTS FOR PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM IN RUSSIA.

(a) INCREASE FOR PROGRAM TO ELIMINATE WEAPONS GRADE PLUTONIUM IN RUSSIA.—The amount in section 3101 for defense nuclear nonproliferation is hereby increased by $30,000,000, to be available only for the program transferred under section 3142.

(b) OFFSETTING REDUCTION.—The amount in section 201(4) for the Missile Defense Agency is hereby reduced by $30,000,000, to be derived from program element 0603880C, Ballistic Missile Defense System Segment.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. FROST OF TEXAS

At the end of title X (page 218, after line 15), insert the following new section:

SEC. ____. REQUIREMENTS FOR NATURALIZATION TO CITIZENSHIP THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(a) PERIOD OF REQUIRED SERVICE REDUCED TO 2 YEARS.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking ''three'' and inserting ''two''.

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Section 328(b) of the Immigration and Nationality Act (8 U.S.C. 1439(b)) is amended—

(1) by striking the period at the end of paragraph (3) and inserting ''; and''; and

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

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or issuing a certificate of naturalization upon his admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.''.

(c) NATURALIZATION THROUGH ENLISTMENT IN THE ARMED FORCES AND SERVICE WITH AN ELIGIBILITY FOR ACCESS TO CLASSIFIED INFORMATION.—The Immigration and Nationality Act is amended by adding after section 328 the following new section:

''NATURALIZATION THROUGH ENLISTMENT IN THE ARMED FORCES OF THE UNITED STATES AND SERVICE WITH AN ELIGIBILITY FOR ACCESS TO CLASSIFIED INFORMATION''

''SEC. 328A. (a) A person who has served honorably at any time in the Armed Forces of the United States, who enlisted for such service and was not inducted to service, whose eligibility for access to classified information has been certified to the Service by the relevant military department, and who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

''(b) A person filing a application under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

''(1) no residence within a State or district of the Service in the United States shall be required;

''(2) notwithstanding section 318 insofar as it relates to deportability, such applicant may be naturalized immediately if the applicant be then actually in the Armed Forces of the United States, and if prior to the filing of the application, the applicant shall have appeared before and been examined by a representative of the Service;

''(3) the applicant shall furnish to the Attorney General, prior to any final hearing upon his application a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section—

''(A) clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable,

''(B) clearly showing that the applicant entered the Service through enlistment and not induction; and

''(C) clearly showing that the applicant was eligible for access to classified information; and

''(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or issuing a certificate of naturalization upon his admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.

''The certificate or certificates herein provided for shall be conclusive evidence of such service and discharge.

''(c) In the case such applicant's service was not continuous, the applicant's residence in the United States and State or district of the Service in the United States, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing such application between the periods of applicant's service in the Armed Forces, shall be alleged in the application filed under the provisions of subsection (a) of this section, and proved at any hearing thereon. Such allegation and proof shall also be made as to any period between the termination of applicant's service and the filing of the application for naturalization.

''(d) The applicant shall comply with the requirements of section 316(a) of this title, if the termination of such service has been more than six months preceding the date of filing the application for naturalization, except that such service within five years immediately preceding the date of filing such application shall be considered as residence and physical presence within the United States.

''(e) Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of compliance with the provisions of section 316(a).''.

(d) CONDUCT OF NATURALIZATION PROCEEDINGS OVERSEAS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Notwithstanding any other provision of law, the Attorney General, the Secretary of State, and the Secretary of Defense, shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act relating to naturalization of members of the Armed Forces are available through United States embassies and consulates and, as practicable, United States military installations overseas.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MS. HOOLEY OF OREGON

At the end of title III (page 81, after line 18), insert the following new section:

SEC. ____. ADDITIONAL FOOD ITEM AUTHORIZED FOR PURCHASE FOR COMBAT FEEDING PROGRAM.

The Secretary of Defense shall amend the list describing the types of shrimp that may be purchased for use in the Department of Defense Combat Feeding Program to include frozen, Pacific pink shrimp (Pandalus jordani), consisting of 350 to 500 shrimp per pound.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. TIERNEY OF MASSACHUSETTS

At the end of subtitle C of title II (page 49, after line 17), insert the following new section:

SEC. 234. LIMITATION ON USE OF FUNDS FOR GROUND-BASED NATIONAL MISSILE DEFENSE PENDING ANNUAL CERTIFICATION OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

No funds of the Department of Defense may be obligated or expended for a fiscal year for ground-based national missile defense until after the Director of Operational Test and Evaluation submits to Congress in that fiscal year the Director's certification that the Missile Defense Agency and the contractors of that agency have provided to the Director access to all records and data that the Director considers necessary, as required by section 139(e)(3) of title 10, United States Code.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. TIERNEY OF MASSACHUSETTS

At the end of subtitle C of title II (page 49, after line 17), insert the following new section:

SEC. 234. LIMITATION ON USE OF FUNDS FOR GROUND-BASED NATIONAL MISSILE DEFENSE PENDING ANNUAL CERTIFICATION OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

No funds of the Department of Defense may be obligated or expended for a fiscal year for ground-based national missile defense until after the Director of Operational Test and Evaluation submits to Congress in that fiscal year the Director's certification that the Department of Defense is in full compliance with the recommendations of the National Missile Defense Deployment Readiness Review issued by the Director in August 2000.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. TIERNEY OF MASSACHUSETTS

At the end of subtitle C of title II (page 49, after line 17), insert the following new section:

SEC. 234. LIMITATION ON USE OF FUNDS FOR CONSTRUCTION OF MISSILE DEFENSE FACILITIES AT FORT GREELY, ALASKA, PENDING APPROVAL OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

No funds appropriated for fiscal year 2003 for the Department of Defense may be obligated or expended for the construction of any missile defense facilities at Fort Greely, Alaska, until the Director of Operational Test and Evaluation approves (in writing) the adequacy of the plans (including the projected level of funding) for operational test and evaluation pursuant to section 2399(b) of title 10, United States Code.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MS. MCKINNEY OF GEORGIA

At the end of subtitle B of title II (page 45, after line 19), insert the following new section:

SEC. 217. TERMINATION OF CRUSADER PROGRAM.

(a) TERMINATION.—The Secretary of the Army shall terminate the Crusader program.

(b) ELIMINATION OF FUNDING.—The amount in section 201(1) for research, development, test, and evaluation, Army, is hereby reduced by $475,200,000.

AMENDMENT TO H.R. 4546 (FY03 DEFENSE AUTHORIZATION BILL) OFFERED BY MR. JONES OF NORTH CAROLINA

At the end of subtitle D of title III (page 64, after line 19), insert the following new section:

SEC. 3____. RIGHTS OF DEPARTMENT OF DEFENSE EMPLOYEES WITH RESPECT TO ACTIONS OR DETERMINATIONS UNDER PUBLIC-PRIVATE COMPETITIONS.

(a) APPEAL RIGHTS.—Section 2467 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) APPEAL RIGHTS.—(1) A person described in paragraph (2) who is adversely affected by any action or determination under Office of Management and Budget Circular A–76 or other public-private competition for the performance of a function for the Department of Defense shall have appeal rights to the Comptroller General.

''(2) A person referred to in paragraph (1) is an officer or employee of an organization within the Department of Defense that is an actual or prospective offeror to perform the activity that is the subject of the action or determination under paragraph (1).''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2467. Cost comparisons: inclusion of retirement costs; consultation with employees; appeal rights; waiver of comparison

(2) The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2467 and inserting the following new item:

"2467. Cost comparisons: inclusion of retirement costs; consultation with employees; appeal rights; waiver of comparison.".

(c) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply with respect to any review under Office of Management and Budget Circular A–76 or other public-private competition for the performance of a function for the Department of Defense that is commenced on or after the date of the enactment of this Act and any review or competition underway on the date of the enactment of this Act.

AMENDMENT TO H.R. 4546 (FY03 DEFENSE AUTHORIZATION BILL) OFFERED BY MR. JONES OF NORTH CAROLINA

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

SEC. 3___. RIGHTS OF DEPARTMENT OF DEFENSE EMPLOYEES WITH RESPECT TO ACTIONS OR DETERMINATIONS UNDER PUBLIC-PRIVATE COMPETITIONS.

(a) APPEAL RIGHTS.—Section 2467 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) APPEAL RIGHTS.—(1) A person described in paragraph (2) shall be considered to be an interested party under subchapter V of chapter 35 of title 31 for purposes of any action or determination that adversely affects the person under Office of Management and Budget Circular A–76 or other public-private competition for the performance of a function for the Department of Defense.

"(2) A person referred to in paragraph (1) is—

"(A) an officer or employee of an organization within the Department of Defense that is an actual or prospective offeror to perform the activity that is the subject of the action or determination under paragraph (1); or

"(B) the head of any labor organization referred to in section 7103(a)(4) of title 5 that includes within its membership officers or employees of an organization referred to in subparagraph (A).".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2467. Cost comparisons: inclusion of retirement costs; consultation with employees; appeal rights; waiver of comparison

(2) The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2467 and inserting the following new item:

"2467. Cost comparisons: inclusion of retirement costs; consultation with employees; appeal rights; waiver of comparison.".

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. RAHALL OF WEST VIRGINIA

(For himself, Mr. Dingell of Michigan, Mr. Maloney of Connecticut, Mr. Allen of Maine, Mr. Farr of California, Mr. Pallone of New Jersey, Ms. Sanchez of California, Mr. Hinchey of New York, Mr. Meehan of Massachusetts, and Ms. Lee of California)

Strike sections 311 and 312 (page 52, line 10 through page 54, line 18).

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. BLUMENAUER OF OREGON

At the end of subtitle B of title II (page 45, after line 19), insert the following new section:

SEC. 217. TRANSFER OF FUNDS TO UNEXPLODED ORDNANCE PROGRAM.

(a) INCREASE FOR UNEXPLODED ORDNANCE PROGRAM.—The amount provided in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby increased by $20,000,000, to be available for program element 0603716D, for use for unexploded ordnance detection and clearance.

(b) REDUCTION FROM CRUSADER PROGRAM.—The amount provided in section 201(1) for research, development, test, and evaluation, Army, is hereby reduced by $20,000,000, to be derived from amounts available for the Crusader program.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. BLUMENAUER OF OREGON

At the end of subtitle B of title II (page 45, after line 19), insert the following new section:

SEC. 217. TRANSFER OF FUNDS TO UNEXPLODED ORDNANCE PROGRAMS.

(a) INCREASES FOR UNEXPLODED ORDNANCE PROGRAM.—(1) The amount provided in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby increased by $20,000,000, to be available for program element 0603716D, for use for unexploded ordnance detection and clearance.

(2) The amount provided in section 301(17) for environmental restoration, Defense-wide, is hereby increased by $30,000,000, to be available for the military munitions response program.

(3) The amount provided in section 301(18) for environmental restoration, formerly used defense sites, is hereby increased by $70,000,000, to be available for unexploded ordnance cleanup.

(b) REDUCTION FROM CRUSADER PROGRAM.—The amount provided in section 201(1) for research, development, test, and evaluation, Army, is hereby reduced by $120,000,000, to be derived from amounts available for the Crusader program.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. LANGEVIN OF RHODE ISLAND

At the end of subtitle F of title V (page ____, after line ____), insert the following new section:

SEC. ____. WEAR OF ABAYAS BY MEMBERS OF THE ARMED FORCES IN SAUDI ARABIA.

(a) PROHIBITIONS RELATING TO WEAR OF ABAYAS.—(1) A member of the Armed Forces may not be required or strongly encouraged to wear the abaya garment or any part of the abaya garment while in the Kingdom of Saudi Arabia pursuant to a permanent change of station or orders for temporary duty.

(2) No adverse action, whether formal or informal, may be taken against a member of the Armed Forces who chooses not to wear the abaya garment or any part of the abaya garment while in the Kingdom of Saudi Arabia pursuant to a permanent change of station or orders for temporary duty.

(b) INSTRUCTION.—(1) The Secretary of Defense shall provide each member of the Armed Forces ordered to a permanent change of station or temporary duty in the Kingdom of Saudi Arabia with instructions regarding the prohibitions in subsection (a). Such instructions shall be provided to a member within 10 days before the date of a member's arrival at a United States military installation within the Kingdom of Saudi Arabia or immediately upon such arrival. The instructions shall be presented orally and in writing. The written instruction shall include the full text of this section.

(2) In carrying out paragraph (1), the Secretary shall act through the Commander in Chief, United States Central Command and Joint Task Force Southwest Asia, and the commanders of the Army, Navy, Air Force, and Marine Corps components of the United States Central Command and Joint Task Force Southwest Asia.

(c) PROHIBITION ON USE OF FUNDS FOR PROCUREMENT OF ABAYAS.—Funds appropriated or otherwise made available to the Department of Defense may not be used to procure abayas for regular or routine issuance to members of the Armed Forces serving in the Kingdom of Saudi Arabia or for any personnel of contractors accompanying the Armed Forces in the Kingdom of Saudi Arabia in the performance of contracts entered into with such contractors by the United States.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. UDALL OF COLORADO

At the end of subtitle D of title XXXI (page 356, after line 25), insert the following new section:

SEC. 3153. SENSE OF CONGRESS REGARDING COMMITMENT TO CLEANUP AT ROCKY FLATS.

(a) FINDINGS.—The Congress finds the following:

(1) The United States and the State of Colorado have a compelling interest in achieving the safe and effective cleanup of present and former nuclear weapons facilities of the Department of Energy, including the Rocky Flats Environmental Technology Site in Colorado.

(2) Completion of cleanup at Rocky Flats and closure of that site will allow resources to be redirected to meet the needs of other present and former nuclear weapons sites, including sites in Washington, Texas, Idaho, Ohio, New Mexico, Tennessee, South Carolina, and other States.

(3) The Department of Energy seeks to complete cleanup and closure of the Rocky Flats site on or before December 15, 2006, and it is in the national interest for that objective to be met.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Energy should take all steps necessary and appropriate, including removal from the site of all plutonium and other wastes, to achieve cleanup and closure of the Rocky Flats Environmental Technology Site, Colorado, on or before December 15, 2006, in a manner consistent with the Rocky Flats Cleanup Agreement, an intergovernmental agreement, dated July 19, 1996, among—

(1) the Department of Energy;

(2) the Environmental Protection Agency; and

(3) the Department of Public Health and Environment of the State of Colorado.

AMENDMENT TO H.R. 4546, AS REPORTED OFFERED BY MR. KUCINICH OF OHIO OR MR. PAUL OF TEXAS

At the end of subtitle A of title X (page 196, after line 2), insert the following new section:

SEC. ____. LIMITATION ON FUNDING PENDING COMPLETION OF SUCCESSFUL AUDITS.

(a) IN GENERAL.—Of the total amount appropriated pursuant to authorizations of appropriations in this Act for any component of the Department of Defense specified in subsection (b), not more than 99 percent may be obligated until the Secretary of Defense submits to Congress a notice in writing that such component has received an unqualified opinion on its audited financial statements pursuant to section 3521 of title 31, United States Code.

(b) COVERED COMPONENTS.—Components of the Department of Defense subject to subsection (a) are those components that the Director of the Office of Management and

Budget has identified (as of the date of the enactment of this Act) under subsection (c) of section 3515 of title 31, United States Code, as being required to have audited financial statements meeting the requirements of subsection (b) of that section.

AMENDMENT TO H.R. 4546, AS REPORTED
OFFERED BY MR. KUCINICH OF OHIO

At the end of title II (page 49, after line 17), insert the following new section:

SEC. ___. LIMITATION ON MISSILE DEFENSE SYSTEMS.

As of the date when the total amount expended by the United States since April 1, 1997, for fixed-base ballistic missile defense programs has exceeded $50,000,000,000, the Secretary of Defense shall terminate all such programs unless before that date the Secretary certifies to Congress that the Department of Defense has demonstrated in a flight test that an interceptor missile can destroy a warhead without relying in the test on any device on the target vehicle that an enemy would not employ.

AMENDMENT TO H.R. 4546, AS REPORTED
OFFERED BY MR. KUCINICH OF OHIO

At the end of title VIII (page 174, after line 5), insert the following new section:

SEC. 8___. UNIT COST REPORTS.

Section 2433 of title 10, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

''(5) Whether, since the most recent unit cost report was submitted, a new baseline description has been established under section 2435 of this title. If such new baseline description has been established, the program manager shall report whether this new baseline description was established due to excessive cost growth and for the purpose of establishing new per unit costs for charting cost growth.'';

(2) in subsection (c), after ''Secretary concerned,'' insert ''or if a new baseline description of the program has been established since the most recent previous unit cost report submitted under subsection (b) due to excessive cost growth and for the purpose of establishing new per unit costs for charting cost growth,'';

(3) in subsection (d)—

(A) by inserting ''(A)'' after ''(d)(1)''; and

(B) by inserting before paragraph (2) the following:

''(B) If, according to the report submitted by the program manager under subsections (b) or (c), a new baseline description of –the program has been established since the most recent previous unit cost report submitted due to excessive cost growth and for the purpose of establishing new per unit costs for charting cost growth, the service acquisition executive shall consider the current program acquisition unit cost for the program to have increased by at least 25 percent.'';

(C) by inserting ''(A)'' immediately after the first place ''(2)'' appears; and

(D) by inserting before paragraph (3) the following:

''(B) If, according to the report submitted by the program manager under subsections (b) or (c), a new baseline description of –the program has been established since the most recent previous unit cost report submitted due to excessive cost growth and for the purpose of establishing new per unit costs for charting cost growth, the service acquisition executive shall consider the current program acquisition unit cost for the program to have increased by at least 25 percent.''; and

(4) by adding at the end of subsection (e) the following:

''(4) If a determination of an increase of at least 15 percent is made by the Secretary under subsection (d) in three successive years, or if a determination of an increase of at least 25 percent is made by the Secretary three times in any period, funds –appropriated for military construction, for research, test, and evaluation, and for procurement may not be obligated for a major contract under the program.

''(5) In the event of a congressional declaration of war, and if the Secretary of Defense determines that a program subject to termination under paragraph (4) is vital to any operation of the United States Armed Forces pursuant to this declaration of war, the President may, for the duration of hostilities, such paragraph may be waived.''.

AMENDMENT TO H.R. 4546, AS REPORTED
OFFERED BY MS. VELÁZQUEZ OF NEW YORK

At the end of title VIII (page 174, after line 5), insert the following new section:

SEC. 8___. EFFECT OF CONSOLIDATED CONTRACTS ON SMALL BUSINESSES.

(a) IN GENERAL.—Whenever the Secretary of Defense or the Secretary of a military department awards a consolidated contract that displaces a small business as a prime contractor, the Secretary shall develop and implement a plan to offset the decrease in prime contract awards to small businesses occurring as a result of the consolidated contract.

(b) PLAN REQUIREMENTS.—A plan under subsection (a) shall be developed before the award of the consolidated contract and shall be implemented during the same fiscal year as the fiscal year in which the consolidated contract is awarded. The plan shall provide for an increase in prime contract awards to small businesses during such fiscal year so as to offset the decrease in prime contract awards by reason of the award of the consolidated contract.

(c) TRANSMISSION TO SBA.—The Secretary shall transmit a copy of the plan to the Administrator of the Small Business Administration not later than 10 days after the date on which development of the plan is completed.

AMENDMENT TO H.R. 4546, AS REPORTED
OFFERED BY MS. VELÁZQUEZ OF NEW YORK

At the end of title VIII (page 174, after line 5), insert the following new section:

SEC. 8___. LIMITATION ON AWARD OF SPECIFIED CONTRACT PENDING ACTION ON SMALL BUSINESS ADMINISTRATION RECOMMENDATIONS.

(a) LIMITATION.—No funds may be obligated for a contract described in subsection (b) until the Secretary of the Army has accepted in their entirety the recommendations of the Administrator of the Small Business Administration with respect to that contract contained in the Administrator's letter to the Secretary dated March 20, 2002.

(b) COVERED CONTRACT.—Subsection (a) applies with respect to a contract to be awarded by the Army Communications-Electronics Command under the contract solicitation of that command numbered DAAB07–02–R–G401.

AMENDMENT TO H.R. 4546, AS REPORTED
OFFERED BY MS. VELÁZQUEZ OF NEW YORK

At the end of title VIII (page 174, after line 5), insert the following new section:

SEC. 8___. LIMITATION ON AWARD OF BASE SUPPORT CONTRACTS.

No funds available to the Department of Defense may be obligated for a contract referred to as a ''Base Support Contract'' until the head of the Base Contracting Activity has prepared a written plan specifying how the Department of Defense is going to increase opportunities for the local small business community to be awarded prime contracts with the Department of Defense during the fiscal year during which the Base Support Contract is awarded or renewed.

AMENDMENT TO H.R. 4546, AS REPORTED
OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of title IV (page 90, after line 23), insert the following new section:

SEC. 422. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL ACCOUNTS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated in section 421 is increased by $7,784,000,000.

(b) OFF-SETTING REDUCTION.—The amount authorized to be appropriated in section 201(4) for research, development, test, and evaluation for Defense-wide activities is reduced by $7,784,000,000, to be derived from ballistic missile defense programs.

AMENDMENT TO H.R. 4546, AS REPORTED
Offered by Ms. Millender-McDonald of California

At the end of title X (page 218, after line 15), insert the following new section:

SEC. ___. TERRORIST-RELATED THREATS TO PUBLIC TRANSPORTATION.

(a) ASSESSMENT.—The Secretary of Transportation, in consultation with the heads of other appropriate Federal departments and agencies, shall conduct an assessment of terrorist-related threats to all forms of public transportation, including public gathering areas related to public transportation.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall transmit to the President and Congress a report on the results of the assessment conducted under this section, including the Secretary's recommendations for legislative and administrative actions.

Mr. UDALL of Colorado. Mr. Speaker, this rule is a serious abuse of power on the part of the Republican leadership and should be rejected by the House.

Everyone knows that the Defense Authorization bill is one of the most important measures that the House will consider this year. It should be considered under a rule that will allow the full House—not just members of the Armed Services Committee and some others favored by the Rules Committee—to have an opportunity to participate in shaping the legislation.

That is particularly true this year because the bill as approved by the Committee includes many controversial provisions.

Some of these controversial provisions involve matters appropriate for debate in the context of a bill to authorize defense programs. They include provisions authorizing weapons systems not requested or needed by the Pentagon as well as provisions authorizing policy changes in the area of missile defense and nuclear weapons development.

But other controversial provisions go beyond the normal or appropriate scope of a defense authorization bill.

For example, the bill includes provisions concerning the Endangered Species Act and the Migratory Bird Treaty Act, matters within the jurisdiction of other Committees, including the Resources Committee but which our Committee has had no opportunity to consider.

And, in addition, the bill includes an entire title—Title XIV—that not only

includes provisions dealt with in a bill referred to the Resources Committee but goes further to include matters within our Committee's exclusive jurisdiction. Many Armed Services Committee members themselves have said this was ''a procedural foul.''

At the very least, the Rules Committee should have allowed the House an opportunity to consider changing or removing these very controversial provisions. But the rule does not allow that debate to take place.

Further, I cannot support the rule because it would not even allow the House to consider going on record in support of finishing the cleanup and closure of the Rocky Flats site by 2006.

That former nulcear-bomb plant is right at the edge of the most heavily-populated part of our state. The Energy Department is working to clean it up so it can be closed by 2006 and transferred to the Interior Department for management as a National Wildlife Refuge. This is a matter of highest priority for all Coloradans, and we think it should be a high priority for the Congress and the Administration as well. So, I filed an amendment that would have added to this bill a mere ''sense of Congress'' statement reiterating that DOE should do all that is needed to meet the goal of a 2006 closure. But this rule does not even allow the House to consider adding that to the bill. Just allowing my amendment would not, by itself, have made this rule fully acceptable. Not allowing just makes the rule worse. I urge rejection of the rule.

Mr. MARKEY. Mr. Speaker, I rise in opposition to the Rule.

The Republican attack on our Nation's environmental laws in this bill reminds me of the old quote from a U.S. officer during the Tet Offensive—''We had to destroy the village in order to save it.''

Here, we have a situation where the military has told us that it can assure readiness without the exemptions being sought by the Republicans. Down at Fort Bragg, for example, the Army has been working with the environmental community to protect endangered birds and set aside additional land outside of the base for wildlife habitat. Readiness has not suffered—just ask the Taliban and Al Queda.

In fact, the environmental laws provide exemptions for activities necessary for national security. And to date, no exemption has ever been sought by our Armed forces. In fact the most damning word the Air Force could conjure up to describe the effect of current law is ''subtle.'' And the Marine Corp admitted that the Fish and Wildlife Service is ''sympathetic'' to DOD's needs.

Our military personnel are well-trained and ready for action and they have successfully coexisted with environmental laws for the past 3 decades.

Nevertheless, in this legislation the Republican Majority says we must destroy the environment in order to save America from the terrorist threat. The Republicans have chosen to grant the DOD broad exemptions from our environmental laws wrapped in the cloak of national security and military readiness.

What is really happening here is that those people committed to dismantling the environmental laws that protect public health and the environment can't do it directly because the public outcry would be too great. So, instead they wrapped up their arguments in the cloak of national security and tried to pass off despoiling the environment and threatening endangered species as necessary because of the war on terrorism.

Don't be fooled by the new national security wrapping. This is the same old package—the elimination of laws inconvenient to some but crucial for protecting public and environmental health.

I urge you to defeat the previous question.

Let's defeat this gag Rule that prevents us from considering an amendment to delete these anti-environmental riders.

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

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

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

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 215, nays 202, not voting 17, as follows:

[Roll No. 135]

YEAS—215

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berkley
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps

Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watt (NC)
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—17

Bentsen
Bishop
Boucher
Burton
Crane
Hall (OH)
Jackson-Lee (TX)
LaFalce
Maloney (CT)
Meehan
Ose
Riley
Roukema
Smith (NJ)
Traficant
Watson (CA)
Waxman

□ 1257

Messrs. RUSH, GEORGE MILLER of California, ORTIZ, and Ms. McCOLLUM changed their vote from ''yea'' to ''nay.''

Mr. HYDE and Mrs. JOHNSON of Connecticut changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the resolution.

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

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 216, noes 200, not voting 18, as follows:

[Roll No. 136]

AYES—216

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berkley
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Jackson (IL)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watt (NC)
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—18

Bentsen
Bishop
Boucher
Burton
Crane
Davis (FL)
Hall (OH)
Jackson-Lee (TX)
LaFalce
Maloney (CT)
Meehan
Ose
Riley
Roukema
Smith (NJ)
Traficant
Watson (CA)
Waxman

□ 1315

Mr. ORTIZ and Mr. GREEN of Texas changed their vote from ''aye'' to ''no.''

Mr. KERNS changed his vote from ''no'' to ''aye.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 975

Mr. WATKINS of Oklahoma. Mr. Speaker, I ask unanimous consent that the gentleman from Alabama (Mr. BACHUS) be removed as a cosponsor of H.R. 975.

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

There was no objection.

□ 1315

MOTION TO ADJOURN

Mr. TAYLOR of Mississippi. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the motion to adjourn offered by the gentleman from Mississippi (Mr. TAYLOR).

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

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 35, noes 375, not voting 24, as follows:

[Roll No. 137]

AYES—35

Abercrombie
Allen
Berman
Berry
Brady (PA)
Capuano
DeFazio
Delahunt
Dingell
Doggett
Filner
Frank
Greenwood
Hastings (FL)
Hinchey
Holt
Johnson, E. B.
Jones (OH)
Langevin
Lee
McDermott
McGovern
McIntyre
Miller, George
Mink
Olver
Owens
Pallone
Schakowsky
Shows
Slaughter
Stark
Tanner
Taylor (MS)
Waters

NOES—375

Ackerman
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett

Bartlett
Barton
Bass
Becerra
Bereuter
Berkley
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boyd
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—24

Bentsen
Bishop
Boucher
Brady (TX)
Burton
Crane
Dicks
Goss
Hall (OH)
Harman
Hoyer
Jackson-Lee (TX)
Maloney (CT)
Meehan
Ose
Pelosi
Reyes
Riley
Roukema
Smith (NJ)
Traficant
Watson (CA)
Watts (OK)
Waxman

□ 1332

Mr. ISRAEL changed his vote from ''aye'' to ''no.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 448

Mr. FILNER. Mr. Speaker, I ask unanimous consent that I be removed as a cosponsor of H.R. 448.

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

There was no objection.

BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The SPEAKER pro tempore. Pursuant to House Resolution 415 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4546.

□ 1331

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, and for military construction, to prescribe military personnel strengths for fiscal year 2003, and for other purposes, with Mr. CAMP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON) each will control 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

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

Mr. Chairman, on May 1 the Committee on Armed Services reported H.R. 4546 on a strong bipartisan vote of 57 to one. The bill authorizes appropriations for the Department of Defense and for the Department of Energy national security programs for a total of $383 billion in budget authority, consistent with the President's budget and with the House-passed budget resolution.

Over the next few hours, we will debate and explain the many initiatives contained in this bill to support and strengthen our Armed Forces during this critical period in our Nation's history. I am pleased to once again be able to report to my colleagues that this legislation embodies the same bipartisan spirit that has guided U.S. national security policy for decades.

It provides for pay, housing, fiscal and physical well-being of our Armed Forces members and their families. It provides for the research and acquisition of our military arsenal so critical to maintaining our combat edge on the battlefield. It provides for the resources and tools to properly train our forces to be ready to defend our freedoms around the world at a moment's notice, and it also provides for our Nation's military retirees, who devoted a better time of their lives for this country.

Mr. Chairman, this is a very good bill. It follows the spending blueprints set forth by the President to make his defense budget the largest since 1990. It also marks the largest single-year increase in defense spending since 1966.

By marking the fifth consecutive year of real increases in defense spending, we are starting to dig out of the budget hole that we created after 13 years of budget cuts. Our Armed Forces, while still the most formidable fighting force on the planet, face serious and fundamental choices in the years ahead. This presents both an opportunity and a risk if the choices we make are not prudent and do not hedge on our bets against the inevitable surprises and challenges that may lie ahead.

The bill before the House sets a prudent course. It recognizes today's new reality and accelerates and emphasizes new tools necessary for the critical fight against terrorism. It makes sure that our most precious military commodity and resource, our men and women in uniform, are properly compensated and taken care of.

It also makes sure we do not forget the basics, the unglamorous elements of the defense budget necessary to make sure it works when called upon.

Mr. Chairman, on a personal note, this marks the last defense authorization bill that I will have the privilege to manage before this great House. It has been an honor to serve and have the trust of my colleagues to be able to

lead two great committees over the past 8 years, and I will greatly miss the friendship and bipartisanship, the sense of mission that allows the Committee on Veterans Affairs and the Committee on Armed Services to quietly and effectively do their important work on behalf of our Nation's veterans and military forces.

I urge my colleagues to support this important legislation.

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

Mr. SKELTON. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I urge my colleagues to support the Bob Stump National Defense Authorization Act for Fiscal Year 2003. This bill, properly so, is named in honor of our chairman, who has stated his intention not to return to this body; and I thank him for the work that he has done on the bipartisan amendment within the committee itself.

The committee unanimously named this bill for him. This is an excellent bill. It passed by a vote of 57 to one. It authorizes $393 billion for defense programs, which includes $15.5 billion for the Department of Energy defense-related matters.

The bill makes a number of vital readiness and modernization improvements, and it does a good job in keeping our forces the best trained and the best equipped in the world. The quality-of-life issues are excellent for our servicemembers and their families. In particular, there is a 4.1 percent pay raise, with targeted raises, and I am also pleased to state that there is an increase in the end strength for all services, a much, much needed improvement.

Many missions are being performed by our men and women in uniform that make it clear that we need more people. There is an increase of some $4 million in military construction and family housing that also adds to the quality of life. We were able to increase funding for procurement, research and development, and military construction.

My principal reservations with this bill do concern matters relating to the environment and nuclear weapons policy. But with that said, at the end of the day, Mr. Chairman, this is an excellent bill. It will help our readiness; it will help our troops, whether they be on the field or on post or on base in this country. We are very proud of what they do, so this is a major step in supporting them.

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

Mr. STUMP. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California (Mr. HUNTER), chairman of our Subcommittee on Military Research and Development.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just wanted to join the other members of the Committee and of the House in thanking the gentleman from Arizona (Mr. STUMP) for his great service to our country, not only in the House of Representatives, but also as a 16-year-old kid who joined the U.S. Navy in World War II. That great ethic of service to the Nation has carried through, and the gentleman from Arizona (Chairman STUMP) has put together a great bill which is essential to this country right now because we are in a war.

I made a few comments during the rule that I think covered to some degree my work and the work of the Subcommittee on Military Research and Development and our contribution to the bill.

Basically, we are working to try and put some money into some high-leverage areas. We have done a pretty good job along those lines. There is missiles and missile defense. That is the ability to stop missiles, from the slow-moving SCUDS, or the Model-Ts of the offensive missiles, all the way up to the fast ICBMs that can be thrown all the way across a great ocean at a nation. Our ability to stop those missiles right now does not exist except in the very low-performance area, and we are moving aggressively with a $7.9 billion program.

The leader of that program, General Kadish, is, I think, acknowledged by Democrats and Republicans to be an extraordinary steward of this program. We have given him some very broad funding categories in missile defense; and we have told him to go out and test this stuff, test it in very difficult situations, put a lot of stress on the systems, and throw out the losers and promote the winners. That means to spend money where it is going to be effective for American security.

So we have given General Kadish a great deal of discretion. I think it is discretion well placed. We have kept that budget very well funded.

Lastly, Mr. Chairman, we have put money in a couple of vulnerable areas. We have put money in the area that has been a real concern to the United States, and that is our ability to defend our ships against increasing performance of antiship missiles that potential adversaries are developing around the world.

We have also put some money, some additional dollars, into our mine-clearing and mine-detection capability, a very important area for us because now we are moving from the deep ocean Navy and deep ocean conflict scenarios into the so-called littorals, right up against the shore where minefields are going to play an increasing role. So we have put money there.

Also we see some potential adversaries building now these new submarine classes, mainly diesel subs, but subs that are very quiet that can hold choke points that can cause us severe problems in strategic areas of the world and where our ability to detect those submarines is critical. So we have put more money in research and development against those areas.

Our members participated fully, Mr. Chairman; and I think we have put together a good package. I want to again thank the chairman of the full committee for this opportunity.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ).

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

Mr. ORTIZ. I thank the gentleman for yielding time to me, Mr. Chairman.

Mr. Chairman, I rise in strong support of H.R. 4546, the Bob Stump National Defense Authorization Act for Fiscal Year 2003.

Mr. Chairman, I want to specifically address the provisions in the act relating to military readiness. First, I thank the Subcommittee on Military Readiness leadership and my colleagues on both sides of the committee here for doing a great job, and at the same time to the staff for doing a great job, and for the manner in which they conducted the business of the subcommittee this session.

I also wants to express my appreciation to my good friend, the gentleman from Arizona (Chairman STUMP), who has now decided to retire, for his friendship and for his leadership these last few years that we have worked together. Mr. Chairman, we are going to miss you.

Also, I say thanks to the gentleman from Colorado (Mr. HEFLEY) for his personal involvement and the extraordinary steps he took in getting us to this point in developing the readiness portion of fiscal year 2003. Although we worked at an accelerated pace this session, we had an opportunity to see readiness through a different set of eyes, the eyes of the leaders of the soldiers, sailors, and airmen who are entrusted with the awesome responsibility of carrying out our responsibility at the forefront, in harm's way.

We heard them talk about the charges of repair parts, the extra hours they spent trying to maintain old equipment, and the difficulties encountered in trying to conduct realistic training. While we in this body may differ on some policies and program objectives, we in the subcommittee were able to get a better appreciation of the challenges that they face in performing their duties. For their effort, we can all be proud of it.

Mr. Chairman, the readiness provision in this bill reflects some of the steps I believe are necessary with the dollars available to make their task easier. It does not provide all that is needed. Much more funding could be used. At the same time, I believe that this is a good bill. I encourage our Members of the House to vote for a very responsible bill.

Mr. STUMP. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from New Jersey (Mr. SAXTON), the chairman of our Subcommittee on Military Construction.

□ 1345

Mr. SAXTON. Mr. Chairman, I rise in strong support of H.R. 4546, the Bob Stump Authorization Act for Fiscal Year 2003. Last week the Committee on Armed Services, as has been said here a couple of times previously, voted on a great bipartisan vote, almost unanimously, to continue the committee's tradition of bipartisanship in addressing the defense needs of this Nation.

As we should expect, this bill contains several initiatives that will aid the Armed Services in their ongoing war against terrorism on behalf of the American people and, indeed, on behalf of the citizens of the world. I have the honor of chairing two bodies involved in this effort, the Special Oversight Panel on Terrorism and the Subcommittee on Military Installations and Facilities.

The Special Oversight Panel on Terrorism has been extremely active in educating Members of the clandestine ways of terrorists and seeking innovative ways to protect American forces. The Subcommittee on Military installations and Facilities has also been extremely active in our area of responsibility in approving a multitude of important projects necessary for improved force protection of military bases.

This bill does much more than enforce protection, however, and I want to be sure that Members know that this need was carefully addressed by approving only projects that were requested by the Department of Defense and by making sure that these monies will be spent well.

I want to also thank Tom Hawley, our staffer, for all of the work that he did in making sure that necessary measures were put in place in a very efficient way.

Also, always I work closely with my counterpart and good friend the gentleman from Ohio (Mr. HOBSON) of the Subcommittee on Military Construction of the Committee on Appropriations to develop the MILCON program for 2003. The gentleman from Ohio (Mr. HOBSON) and our ranking members the gentleman from Hawaii (Mr. ABERCROMBIE) and the gentleman from Massachusetts (Mr. OLVER) have worked closely with all interested parties to build a program that supports the Department of Defense on addressing major facilities and quality of life shortfalls.

Mr. Chairman, let me say in closing that this chart I have here to my left represents, I believe, the crux of what we did on this year's military installation facilities authorization bill. H.R. 4546 includes $10 billion for military construction and family housing accounts, including $2 billion for quality of life enhancement. This is extremely important, as all the members of the Committee on Armed Services are aware, because in an all-volunteer Army if we cannot attract good sailors, soldiers, Marines and airmen then our military capabilities will suffer. To that extent, we have included monies to enhance quality of life and to provide the necessary facilities in this regard.

So, Mr. Chairman, I ask everyone to support this bill today. I hope it will be another great bipartisan vote at the conclusion of the debate, which will occur sometime around 8 o'clock, and let me again thank my friend the gentleman from Arizona (Mr. STUMP) for his wonderful work as chairman of this committee.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. SNYDER) for purposes of debate.

Mr. SNYDER. Mr. Chairman, I want to extend my thanks to the gentleman from Arizona (Mr. STUMP) for the great work he has done throughout his career in this House. He has also been my chairman on the Committee on Veterans' Affairs and I very much appreciate him. And to the gentleman from New York (Mr. MCHUGH), who is the chairman of the Subcommittee on Personnel, of which I am ranking member.

This bill has many, many good things in it, including a pay raise for our men and women in uniform. It decreases the out-of-pocket expenses for housing. There is an increase in end strength, recognizing the realities of the world that we are facing today.

I also want to say a word about TRICARE, which has been a very good program, improving over the last couple of years, but we have some potential problems with it and this bill includes within it a mandate that GAO study some of the potential problems with TRICARE. Specifically, one is some of the paperwork problems that our providers are facing, like preauthorization. We had a lengthy hearing at the subcommittee level about the problems they are having, and this is leading to provider dropout. And while the overall numbers look good, which is 97 percent of physicians stay with the program, many of them are limiting the number of TRICARE patients they are seeing or are not seeing new patients, and this is a problem for us. So we look forward to those studies.

This bill passed the committee by a vote of 57 to 1, and thanks to the gentleman from Arizona's (Mr. STUMP) leadership and the way he conducts the committee, we had a very vigorous debate. It went on all day with multiple votes. The result was a 57 to 1 bill that came out of the committee.

However, the spirit of the House Committee on Armed Services is inconsistent with the rule that brought this bill before us today. It was said this was a structured rule. It was structured to stifle debate and to avoid uncomfortable votes for Members. That is not consistent with a great democracy at this critical time in history. You look at some of the Members who were denied to bring amendments, some of the most respected Members of this House: The gentleman from Mississippi (Mr. TAYLOR), I disagree with him on base closure but he had every right to bring his amendment to this floor; the gentleman from Connecticut (Mr. MALONEY) and the gentleman from Maine (Mr. ALLEN), both excellent members of the Committee on Armed Services; the gentleman from Texas (Mr. FROST), the ranking member on the Committee on Rules and a strong supporter of our national defense, was denied an amendment; the gentleman from South Carolina (Mr. SPRATT) denied an amendment.

This arrogance of power, Mr. Chairman, has to stop in this body.

Mr. STUMP. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado (Mr. HEFLEY), the chairman of our Subcommittee on Readiness.

Mr. HEFLEY. Mr. Chairman, I would be remiss if I did not recognize the contribution of the gentleman from Arizona (Mr. STUMP), who leads our committee, and the gentleman is truly a great American. I do not throw that phrase around very casually. He has led the committee well. I think he has the respect of his entire committee. We are going to miss him. It is a bad decision to leave the House of Representatives and leave us behind. We love the gentleman, and I have appreciated the opportunity to serve with him and call him a friend.

Mr. Chairman, I rise today in strong support of H.R. 4546, the National Defense Authorization Act for Fiscal Year 2003. I believe the committee has done a superb job in fulfilling its role in oversight of the Department of Defense and has done its best to provide the necessary funding to improve the readiness of our military forces.

Let us not forget, however, that for many years we have seen our military do more and more with less and less, and now as we are engaged in the war on terrorism we are asking our military men and women to do even more. The budget requests for fiscal year 2003 contains some significant increases in defense spending and an effort by the Department of Defense to fully fund their stated requirements. We are all heartened that these increases make a good attempt at arresting the decline in military readiness and begin the process of rebuilding and restoring our military forces.

To accomplish this, the administration has had to significantly increase critical readiness funding this year as compared to last year. As an example, air, ground, and sea operations as well as training and training range operations have increased by $2.1 billion. In addition, base operations accounts required for the day-to-day operation of our military facilities have increased by $1.2 billion. These increases are fully supported in this bill.

The committee has included two provisions that I believe strike a needed balance between the needs of our military to adequately and effectively train for combat and the need to protect our environment. First, we have

included an amendment to the Endanger Species Act that will weigh the impact of national security along with existing obligations under current law not to take any action that will result in the extinction of or harm to an endangered or threatened species.

Second, we have included an amendment in the Migratory Bird Treaty Act to permit the Fish and Wildlife Service to issue a permit to the Department for the accidental taking of migratory birds incidental to authorized military readiness activities.

These and all segments of the Subcommittee on Readiness part of this bill and in fact of the bill as a whole were very bipartisan. As was already mentioned, the bill passed out of committee 57 to 1. It is not a Democratic bill. It is not a Republican bill. It is a bill for the defense of this Nation.

Mr. Chairman, H.R. 4546 is a responsible, meaningful bill that fairly allocates resources for the restoration of acceptable readiness and an acceptable quality of life for the men and women of our military forces. To do anything less will allow the readiness of our military to slip further and could risk the lives of countless men and women in every branch of the military.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER) for purposes of debate.

Mrs. TAUSCHER. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I would also like to add my thanks to the gentleman from Arizona (Mr. STUMP) for his leadership, and I wish him every best wish.

Mr. Chairman, I intend to vote for the defense authorization bill today because it does many good things. This bill will help us fight the war against terrorism and it gives our military men and women a well-deserved pay raise. But I am concerned, Mr. Chairman, about the direction this bill takes regarding our Nation's national nuclear weapons policy.

This bill encourages the United States to develop new nuclear weapons for first time since 1990. It clears the way for underground nuclear testing in Nevada. It endorses arming ballistic missile defenses with nuclear warheads and encourages arbitrary caps on the number of nuclear weapons that could be removed from the Nation's nuclear stockpile.

I will offer an amendment today to require the Department of Energy to provide Congress with options for reducing our nuclear arsenal more quickly than is called for in the Nuclear Posture Review.

If President Bush reaches an agreement with President Putin to reduce nuclear weapons, we should be prepared to make those reductions as quickly as possible, not wait 10 years. But I am disappointed, Mr. Chairman, that the Committee on Rules refused to make in order other amendments relating to our nuclear weapons posture.

I had submitted an amendment with the gentleman from Maine (Mr. ALLEN) to have a more balanced sense of Congress on nuclear policy. Our amendment had several common sense provisions, including restoring the President's ability to pursue sensible reductions in the nuclear stockpile, encouraging conventional ''bunker buster'' weapons rather than nuclear ones, and exploring all the implications of resuming underground testing instead of going full steam ahead with them.

I had also prepared an amendment to extend our Nation's nonproliferation efforts to countries like Pakistan and India.

Mr. Chairman, despite the limitations the Committee on Rules has placed on debate, I encourage Members to vote for the defense authorization bill today, but I also hope that Members recognize that there are many provisions in this bill that take our Nation down a very dangerous path toward a new nuclear arms race.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. THORNBERRY) from the Department of Energy Panel.

Mr. THORNBERRY. Mr. Chairman, I thank the chairman for yielding me time and for his years of service and leadership to our country in national security.

Mr. Chairman, I also appreciate the work of all Members on the Department of Energy Panel and, particularly, the partnership of the gentlewoman from California (Mrs. TAUSCHER).

For 57 years nuclear weapons have played a central role in maintaining our freedom and in preventing the kind of world wars which plagued the early part of the 20th century. There can be no doubt that nuclear weapons will continue to be central to our security as long as any of us are around.

Nuclear weapons exist. We cannot uninvent them. We cannot wipe them off the memory banks of human knowledge, and we should not try to stick our heads in the sand and wish them away. The facts, Mr. Chairman, are that 12 countries now have nuclear weapon programs, 13 countries have biological weapons programs, 16 countries have chemical weapons programs, according to the administration, and that does not count other groups, like al Qaeda, who are trying to acquire them.

The United States does not have chemical and biological, so we must have a strong nuclear deterrent to deter use of those weapons of mass destruction, and our deterrent must be credible against a broader array of threats. Not only must we consider the Russian weapons, but we must consider various other kinds of weapons and threats and our deterrent must be credible, even against rogue states, even against terrorists, even against underground targets. They must even be credible to the kind of people we face in this war against terrorism whose aim is to kill as many Americans as possible.

Now, as our nuclear weapons are aging beyond their intended design life, it is going to be a very difficult job to keep them safe and reliable and credible, to keep the people, the infrastructure, the scientific knowledge we have to have to make sure that that deterrent is credible and does work. This bill takes important steps in that direction and it ought to be supported.

Mr. SKELTON. Mr. Chairman, I yield 7 minutes to the gentlewoman from Georgia (Ms. MCKINNEY) for debate purposes only.

Ms. MCKINNEY. Mr. Chairman, I voted against this defense authorization bill in committee, and I plan to vote against it on the floor. This bill represents the largest real increase to defense spending since 1966. It contains over $40 billion more spending than last year's defense authorization, which was a huge authorization in itself. This year's defense budget increase alone is greater than the defense budget of nearly every other nation in the world.

H.R. 4546 provides for over $383 billion in spending for the Pentagon and the weapons programs of the Department of Energy. Unfortunately, this new spending comes at the expense of valuable programs for America's families. Sadly, the Bush administration's tax cut for the wealthy has blown the Clinton surplus and reduced our ability to fully fund important programs like job training, prescription drug benefit, conservation spending and much more.

□ 1400

The one-sided priorities of this bill reflect the belief that national security rests in occupying foreign capitals and overthrowing regimes, as our Secretary of Defense told us in committee, rather than in domestic tranquillity and quality of life for America's people.

In addition to the singular focus of our national security attention, there are problems within the Pentagon that raise questions about such immense spending.

On September 10, 2001, Defense Secretary Rumsfeld stated that ''according to some estimates, we cannot track $2.3 trillion in transactions.'' Such a lack of financial accountability undermines the integrity of the Pentagon. How much more inefficiencies, financial loss and wasteful spending can the American people tolerate?

In any other area of enterprise, people get more money when they prove that they know what they do with what they have already got, what they have gotten, but in the world of defense spending, the Secretary can acknowledge the loss of $2.3 trillion and get an almost unprecedented increase in funding.

Additionally, the basis for such a large increase in spending is wholly unjustified.

The events of September 11 were a tragedy to the entire Nation. However,

the attacks in New York, Pennsylvania and Virginia were not prompted by any failure of the United States military, but instead were the result of a breakdown in our intelligence community. In fact, just last week Yahoo News reported that CIA Deputy Director of Operation James Pavitt ''dismissed charges the CIA was caught unaware by September 11 suicide attacks in the United States'' and that ''the CIA knew the network led by Saudi-born militant Osama bin Laden was planning a major strike.''

Similarly, a Washington Post article dated May 3, 2002, stated, ''Two months before the suicide hijackings, an FBI agent in Arizona alerted Washington headquarters that several Middle Easterners were training at a U.S. aviation school and recommended contacting other schools nationwide.'' The article continued, stating that ''law enforcement officials said in retrospect the FBI believes it should have accelerated the suggested check of U.S. flight schools.''

I must say that I was pleasantly surprised by Secretary Rumsfeld's cancellation of the Crusader program this week, and I was pleased to receive a phone call from the Pentagon to that effect. However, it must be noted that I had an amendment to cut the Crusader because, among other things, it experienced cost overruns and was too heavy and too large to get anywhere fast at any kind of rapid response.

I would also note that the Crusader is a weapons system that has connections to the Carlyle Group which employs the President's father. $475 million is a lot of money. Sadly, the President requested half a billion dollars for the Crusader weapons system but cancelled our commitment to pay high deployment overtime pay to our troops.

However, the fight to kill the Crusader is not over. Despite the cancellation, language in this bill will seek to keep Crusader alive. The Committee on Armed Services and the House should not allow that to happen. The Crusader has been rightly cut. It should remain that way, and the half billion dollars it has freed up should go to reinstating the high deployment per diem that the President cancelled in October.

As by now my colleagues also know, this bill creates exemptions for the Pentagon in the Endangered Species Act and the Migratory Bird Treaty Act, removes protections from public lands, and creates horrendous precedent for wilderness areas. The Committee on Armed Services is not where our country's environmental policy should be made.

With regard to missile defense, H.R. 4546 continues development of this dangerous, destabilizing and unreliable system. The authorization provides $7.8 billion for missile defense following on the nearly $8 billion that was authorized last year. Yet the CIA's own national intelligence estimate states that attacks are much more likely using weapons of mass destruction via untraditional methods such as trucks, ships or airplanes.

Rather than spending billions on a missile defense system, diplomacy through arms control and disarmament agreements will be much more effective in advancing peace and security in the days and years ahead and will cost far less than a Star Wars system.

Though it deeply troubles me that one of the first acts of our President after declaring this war on terrorism was to sign an executive order denying previously promised high deployment overtime pay to our servicemen and women, the personnel and compensation section of this bill takes important steps for our servicemen and women. Though I am opposed to this act, I greatly respect the individual members of our armed services for their service and sacrifice in the name of our Nation.

However, Mr. Chairman, despite whatever good this bill does for our servicemen and women and our veterans, it is still entirely too large and takes us down the wrong policy track.

Additionally, as our defense spending increases year after year, sacrifices made in domestic spending never seem to be corrected. From resuming nuclear testing to advancing nuclear-tipped missile defense, from the rollback of environmental laws, to pork-barreling weapons systems, this bill is big, and it could have been a lot better.

Mr. STUMP. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Pennsylvania (Mr. WELDON), the chairman of our Subcommittee on Military Procurement of the Committee on Armed Services.

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank our distinguished chairman, the gentleman from Arizona (Mr. STUMP) for yielding me the time, and I want to start off again by thanking our chairman and our ranking member, two of the great patriots of this institution, this country, for their outstanding work in bringing us a defense bill that all of us can get behind.

It is not a perfect bill. In fact, there are some amendments that I would like to have seen offered that were not made in order, and that is a part of the process, unfortunately, we go through. I am also not happy with the dollar amount. Our chairman and ranking member made the best possible good faith effort to increase funding, but it is woefully underfunding our modernization.

Other Members who have spoken here have talked about too much for defense. Our soldiers today are fighting in tactical fighters that are 17 years old on average. Our Navy that at one time was 555 ships is now 314 ships. Our shipbuilding account is taking us down to a 235-ship Navy. The B–52 bomber will be 70 years old before it is retired. Our Chinook helicopters will be 60 years old.

We have underfunded the military consistently in both Democrat and Republican administrations for the past 10 years. This bill begins to correct that, but it does not solve all of those problems. We are asking for some relief in this bill. Nothing out of the ordinary.

We want to stop the encroachment that costs us more money that stops our troops from training. This is in no way, shape, or form a rollback of environmental laws. I would not support that, as a Republican proud of my environmental voting record. It does say that when we take 85 percent of Red Beach at Camp Pendleton where our Marines have to train and say 85 percent of that base or that training area, that beach cannot be used because of an endangered species, is a little bit ridiculous, especially when we consider if we look at the numbers of all the Federal agencies that have land, the Pentagon controls the smallest amount of land, yet has the largest number of endangered species of any other Federal agency and, in my opinion, does the most effective job possible in protecting wildlife and protecting endangered species.

All we ask for is some limited relief to allow our military personnel to be properly trained; nothing more. This is not an attempt to roll back environmental laws in any way, shape, or form.

In the other areas of the bill, I think we make a good faith effort in missile defense, in systems and programs. Again, it is not perfect, but we do provide some great increases in assistance for our troops in the personnel area, and I think we make a good down payment on modernization and research for the future.

So I encourage my colleagues to work with us through this process. We will be offering, I think, a very innovative series of amendments on the nuclear posture of this country that will revolutionize our relationship with Russia. I look forward to voting in a positive way on this bill, and I ask our colleagues to vote yes on the final passage and to work with us to get the largest vote possible in showing that our military has the support of Democrats and Republicans.

In closing, I want to thank my colleague and ranking member, the gentleman from Mississippi (Mr. TAYLOR). He is one of the most tireless advocates for the Navy in this Congress. He has fought hard and his work has paid off in an additional ship being funded in this bill. I thank my colleagues for their leadership.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I want to thank my colleague and friend, the gentleman from Pennsylvania (Mr. WELDON), for his kind words and for his good work on the procurement portion of this bill.

Along with every other Member of this body, I want to compliment the

gentleman from Arizona (Mr. STUMP) for being a great human being and a great American and a phenomenal chairman to our committee.

My colleagues have noticed a lot of anger on the floor today, which is completely contrary to just one week ago in the Committee on Armed Services where every single Member who wanted to offer an amendment to that bill was allowed to do so. Today, there are a number of us who felt like we could make a good bill a heck of a lot better and save some American lives by offering amendments.

The gentleman from Arizona (Mr. STUMP) actually went to the Committee on Rules and told them he wanted most of those amendments put in order. I thank the chairman for that, and I deeply regret that the Committee on Rules chose not to make many of these amendments in order.

I thank the gentleman for his efforts, particularly from the day he was 16 years old, serving in the United States Navy till now serving us, and I also wish he would change his mind and stick around for a while.

The gentleman from Pennsylvania (Mr. WELDON) talked on many of the needs of our Nation, and we have incredible pressing needs, about 940 Huey helicopters in inventory, the newest of which was built in 1972, that need to be replaced.

As the gentleman from Pennsylvania (Mr. WELDON) pointed out, the fleet has now shrunk to 314 ships which is the smallest it has been since 1933. That is unacceptable. The President only asked for 5 ships this year which, incidentally, is 2 ships fewer than the Clinton administration asked for. I am pleased Chairman WELDON chose to add an additional destroyer to that. That will take a step towards keeping the fleet at the bare minimum size, and hopefully, the Senate will do even better.

I want to point out that the bill does contain almost a billion dollars for the development of the next generation of destroyers, the DDX. I want to point out the new attack submarine at $1.6 billion was partially funded.

The committee, I think, wisely chose to fund the Crusader program at about $475 million, and I do agree with General Shinseki, who is the chief of staff of the United States Army, on the important need for this program, and I have to take issue with the Secretary of Defense. I think it is necessary. I hope the committee will stick by its guns.

I want to take this opportunity to thank the gentleman from Missouri (Mr. SKELTON) and the gentleman from Arizona (Mr. STUMP) for the way they have handled this committee and put this bill together.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Chairman, I thank the gentleman from Arizona (Mr. STUMP) for yielding me the time.

Mr. Chairman, I rise in strong support of H.R. 4546, the National Defense Authorization Act for Fiscal Year 2003. While I support the bill in its entirety and commend it to this body as must-pass legislation, I want to especially emphasize the provisions in the bill relating to morale, welfare and recreation activities of the Department of Defense and the military services.

I have the honor to chair the Special Oversight Panel of Morale, Welfare and Recreation which keeps a careful eye on some very important quality-of-life benefits for our military families, such as commissaries and child care centers. The MWR portion of H.R. 4546 is truly nonpartisan and was approved unanimously by both the panel and the full committee without any amendments.

I have found the defense programs that are not nourished by the Congress or the Pentagon quickly die away. MWR programs are no different. While I agree with most of what this administration is doing, I believe the continued pressure to privatize commissaries is misguided. The budget for the Defense Commissary Agency contained in this bill is about as low as I am prepared to support without persuasive evidence that customer savings and service will not suffer.

That said, I believe the budget before my colleagues is adequate. To ensure the quality of customer service and continued savings, H.R. 4546 requires a GAO study of DECA's budget proposals as well as other measures to protect the commissary benefit.

In addition, the package before the House will allow our deserving National Guard soldiers called to State duty in time of national emergency, like the present, to use commissary stores. We had provided this privilege some years ago to guardsmen called to duty for natural disasters and found that we should have added national emergencies as well.

Of course, I thank our ranking Democrat, the gentleman from Guam (Mr. UNDERWOOD), for his wise counsel and support in our shared responsibilities to manage MWR matters for the committee, and I join him in urging all Members to vote for H.R. 4546.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Chairman, I rise today to voice my support for the Bob Stump Defense Authorization Act for Fiscal Year 2003.

I want to commend the gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON) for the job they have done on this, and everybody on the committee.

We did have a good discussion last week with this bill. This bill will help solders and their families put more money in their pockets by reducing the average amount of housing expenses paid by service members from the current 11.3 percent to 7½ percent in fiscal year 2003.

□ 1415

Now, that might not mean much to us, but to people who are forced to move every few years, it is a very important issue, this issue of the cost of housing for them. So that puts us on the track to eliminate some of this heavy burden for our families that have men and women in uniform.

The bill, for the first time, fully funds Concurrent Receipt, and establishes a program through which military retirees will receive increasing compensation. And by the year 2007, retirees who are 60 percent or more disabled will receive their full retirement pay and their disability. This is something that our military retirees desperately need.

Unfortunately, this bill also contains provisions that undermine some of our basic commitments to our Nation, including to try to reduce the proliferation of nuclear weapons. The bill gives credence to the fact that the United States should develop nuclear weapons capable of destroying hard and buried targets and use nuclear-tipped missiles to intercept nuclear warheads.

I do not need to remind anyone that nuclear weapons have only been used twice in the history of warfare, and the United States has not designed or built a new nuclear weapon since the Cold War. Mutually Assured Destruction, or MAD, is a policy relic of the Cold War; and it should not be resurrected. It should not be resurrected by us.

Furthermore, this bill furthers the development of national missile defense with little congressional oversight. We may need a missile defense; but we need a structured one, one where we as a Congress look at it and take full responsibility for what is happening with its development.

No bill is perfect. This one has a lack of acknowledgment by the Department of Defense to the members of our Committee on Resources with respect to environmental issues, and this is very shortsighted.

Aside from that, I will be voting for the recommit and for this bill.

Mr. STUMP. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. EVERETT), a member of the committee.

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

Mr. EVERETT. Mr. Chairman, I thank the gentleman, the chairman, and my good friend, the gentleman from Arizona (Mr. STUMP), for yielding me this time. I have served under him while he has been chairman of the Committee on Armed Services and also when he was chairman of the Committee on Veterans' Affairs. This House will miss him.

Let me speak about Army aviation training. The Army continues to short fund the training budget of its helicopter pilots. To address this shortfall,

the committee took steps last year to begin funding the Army Aviation Institute Training Simulator program to enhance pilot training at the Aviation War-fighting Center. Unfortunately, the committee did not add funds for the program in this year's authorization bill due to the lack of resources.

The Army is concerned with the crash rate of the OH–58C/D. It is four times greater than all other helicopters in the fleet. The Army has an immediate need for high-fidelity OH–58C/D simulators to improve the crew training of emergency procedures and other techniques on the aircraft. The Army has identified the AAITS program as the best way to provide this training. It is my hope that the defense appropriators in both Houses will give strong consideration to a $15 million add for six high-definition OH–58C/D simulators.

Mr. Chairman, I can't think of a more important responsibility than to train Army Aviators in the best way possible, with the latest technologies available. The AAITS program meets this challenge by using commercially available technologies that are cost effective and ready to be deployed today.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, in spite of the best attempts of the gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON), this bill has become a political grab bag of extraneous material that has nothing to do with defense authorization and has no place in this bill.

I have time to cite just one example. Article 14 is a provision which contains language that is destructive to our efforts to protect the environment in this country, particularly issues that are destructive to the 1964 Wilderness Act. That language undermines the issue of wilderness as it is practiced by the Federal Government in areas all across the country. It is a special provision. It is even a personal provision. It has no business in this bill.

Furthermore, we were not given the opportunities to present amendments which could give the House the opportunity to debate this issue and to strike these unwarranted and destructive provisions from the bill. That makes this bill unworthy of the House. It ought to be withdrawn. We ought to have an opportunity to debate this issue and those things ought to be brought before us.

Mr. STUMP. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. CHAMBLISS), a member of the committee.

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

Mr. CHAMBLISS. Mr. Chairman, I strongly support the fiscal year 2003 Bob Stump National Defense Authorization Act, which will provide critical resources for our military to ensure that they have the adequate training, modern equipment, and sufficient resources to do their job in protecting our Nation.

I am proud of the work of the House Committee on Armed Services and our chairman, the gentleman from Arizona (Mr. STUMP), who has done an excellent job in crafting a bill that will support our warfighters. Chairman STUMP is a hero of mine, and we will miss his great service in this body.

This bill is important for our Nation. Our troops deserve a pay raise and we provide that to them. We provide our troops and their families quality health care and benefits which they have earned because of their service and sacrifice for our Nation. We provide significant funds for the development of technologies that are needed for our missile defense systems so that we are better prepared to meet the future threats this country faces.

We increase the resources available to combat terrorism, which is an immediate threat to the people of the United States of America. We increase key readiness accounts so that we continue to increase our capabilities to support our warfighters who are actively engaged in protecting American interests around the globe.

Let me say that this bill is also important for Georgia. We fund critical military construction projects at Robins Air Force Base, Fort Benning, Fort Stewart, and Kings Bay Navy submarine base. We fully funded the President's budget request for vital modern aircraft for our Air Force's F–22 Raptor advanced tactical fighter, the C–17, the C–130, and JSTARS, all of which are important to my home State as well as our long-term national defense priorities.

Mr. Chairman, terrorism and our national security are not fleeting problems. This bill addresses our needs on terrorism from a force-protection standpoint, and I urge the passage of this bill.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the defense authorization bill.

I commend the chairman, the gentleman from Arizona (Mr. STUMP), and the ranking minority member, the gentleman from Missouri (Mr. SKELTON), for putting together a good bill. It will enable today's troops to succeed in the war in Afghanistan and makes investments in the future to assure the U.S. military retains its edge.

I commend the bill's shipbuilding initiative to fix the Pentagon's paltry request in this area, and it sets an important marker for restoring funding for a third DDG–51 destroyer. The Merchant Marine panel, of which I am ranking member, does quiet but important work to assure a healthy and viable U.S. maritime fleet. I thank the panel chairman, the gentleman from California (Mr. HUNTER), for his leadership in restoring funding for the title XI loan guarantee program, which gives life to our vital shipbuilding industrial base.

I also welcome the creative provision on ship scrapping, which helps States acquire obsolete vessels for artificial reefs. There are, however, parts of this bill that I do not support. First, it contains three environmental provisions not under the jurisdiction of the Committee on Armed Services. They belong to the Committee on Resources, which was denied the opportunity to consider them. These provisions are a part of a last-minute stealth attempt by DOD to exempt itself from a variety of landmark environmental laws.

The package was submitted just 4 days before committee markup, denying time for proper review. In the only hearing, the majority refused to invite State or local governments, environmental groups, or any other non-administration witnesses to testify.

Second, I disagree with the aggressive nuclear policy language in the bill and report which endorses new nuclear weapons or new uses for such weapons. I am afraid that money spent to revitalize and legitimize nuclear weapons will divert funds from weapons our warfighters actually need for combat. I believe it will be destabilizing and lead to new arms races.

Finally, I am disappointed the committee did not make in order my amendment to previous nuclear-tipped interceptors. The U.S. rejected that idea decades ago.

Mr. STUMP. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CALVERT), a member of the committee.

Mr. CALVERT. Mr. Chairman, I too want to thank the chairman, the gentleman from Arizona (Mr. STUMP), for all his years of service. We will miss him very much, but I know he will always be in our hearts.

Mr. Chairman, in my home State of California, environmental litigation may force the Fish and Wildlife Service to designate critical habitat for endangered species on over 50 percent of the 125,000-acre Camp Pendleton in Southern California. Even though there are 17 miles of coastline in Camp Pendleton, environmental restrictions allow the Marines to use less than 1 mile of that coast, as designated on this drawing. One mile. That is it. That small space.

And once they get ashore, Marines have to align everything and everyone up single file to weed through the land that has been designated critical habitat and cross Interstate 5 to another location on the base to begin their maneuvers.

Mr. Chairman, our Marines should be training as they fight, not as if they are going out on some field trip. Our military is one of the best environmental stewards America has. They should not be forced to give up realistic training on their own property to satisfy a few environmental extremists.

Proper training saves lives. We must not sacrifice the safety of our sons and daughters so that a gnatcatcher or a fairy shrimp can have an undisturbed life.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

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

Mr. UNDERWOOD. Mr. Chairman, I rise today to join my colleagues in support of H.R. 4546, the Bob Stump National Defense Authorization Act for fiscal year 2003. It will go a long way towards ensuring that our troops get the support they need to win the war against terrorism as it meets many of our military's modernization needs and provides every servicemember with a pay raise they so richly deserve.

In particular, I want to address the provisions in the bill relating to the morale, welfare and recreation activities of DOD. I want to acknowledge the outstanding leadership of our panel chair, the gentleman from Maryland (Mr. BARTLETT), and the active participation of all the panel members. I am pleased that we were able to address many of the urgent MWR issues that will sustain this important benefit, including the bill's acknowledgment of our concern and expression of our appreciation for the contributions of the National Guard during this period of national crisis by making it possible for them to use the commissary, even though they are under State control.

In addition to the MWR provisions, I am also pleased to note that a number of measures included within the bill will support Guam in its strategic role to U.S. national security. Guam's military installations and facilities stand to benefit from over $75 million of military construction and improvements. Most notable are the projects for a new on-base water system at Andersen Air Force Base and the continued construction of the Guam Army Guard Readiness Center. The people of Guam welcome this significant boost in military construction and appreciate the recognition this bill provides to our people in uniform.

Further, the bill before us today restores a balance between protecting the environment and sustaining military readiness, particularly in the case of the Farallon de Medinlla, FDM, bombing range north of Guam in the Northern Marianas. Last month, a Federal Court here in Washington, D.C. ruled that the Navy was in violation of the Migratory Bird Treaty because of the incidental taking of nonendangered birds while conducting critical training activities. This bill narrowly fixes this. We are in support of this provision.

Mr. Chairman, I thank the gentleman from Missouri for yielding me this time, and I want to acknowledge the excellent and noble work that our chairman, the gentleman from Arizona (Mr. STUMP), has done over the years.

Mr. STUMP. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. BILIRAKIS).

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

Mr. BILIRAKIS. Mr. Chairman, the 106th Congress took the first steps toward addressing the inequity that provides for an offset between military retired pay and VA disability, which unfairly penalizes more than 500,000 disabled military retirees nationwide by authorizing a monthly allowance to certain severely disabled military retirees. Last year, Congress took an additional step towards eliminating the offset by authorizing my Concurrent Receipt legislation, H.R. 303.

The bill we are considering today follows the fiscal year 2003 budget and includes a provision to authorize military retirees who are 60 percent or greater disabled to receive their full retired pay and VA disability compensation benefit on a transitional basis by fiscal year 2007.

So I say to all my colleagues, Mr. Chairman, support America and its veterans, vote for H.R. 4546. And I would also offer in closing my compliments to the gentleman from Arizona (Mr. STUMP) for being a great patriot and a great chairman.

Some military retirees—individuals who are eligible for military retirement benefits as a result of a full service career—are also eligible for disability compensation from the VA based on a medical problem they incurred while in the service. Under present law, these service-disabled retirees must surrender a portion of their retired pay if they want to receive the disability compensation to which they are entitled. Congress enacted this unjust law in 1891. Nationwide, more than 500,000 disabled military retirees must give up their retired pay in order to receive their VA disability compensation. In effect, they must pay for their VA disability our of their military retirement—something no other federal retiree must do

I have been trying to repeal this unfair offset for more than 17 years. My legislation, H.R. 303, has received strong bipartisan support with more than 390 cosponsors in the House. More than 80 members have cosponsored similar legislation in the Senate. Moreover, every major veterans and military organization strongly support the concurrent receipt of military retired pay and VA disability compensation. The 106th Congress took the first steps toward addressing this inequity by authorizing the military to pay a monthly allowance to military retirees with severe service-connected disabilities rated by the Department of Veterans' Affairs at 70 percent or greater. These provisions were recently expanded to include retirees with ratings of 60 percent.

Last year, Congress took an additional step towards repealing the offset by authorizing H.R. 303. However, under the provisions of the Fiscal Year 2002 National Defense Authorization Act, this authorization requires the President to submit legislation in his annual budget request and Congress to enact this legislation to offset the cost of this initiative. Since the enactment of last year's defense authorization act, I have been working to secure the money needed to fund ''concurrent receipt.'' I was very pleased that the Budget Committee included almost $6 billion in the FY 2002 Budget Resolution for a partial repeal of the dollar-for-dollar offset between retired pay and VA disability compensation.

I am also pleased that the bill we are considering today follows the FY 2002 budget resolution and includes a provision to authorize military retirees who are 60 percent or greater disabled to receive their full retired pay and VA disability compensation benefit by Fiscal Year 2007. Until the program is fully implemented, the bill establishes a transition program through which retirees will receive increasing amounts of their retired pay. I want to thank Chairman BOB STUMP, Ranking Member IKE SKELTON, Military Personnel Subcommittee Chairman JOHN MCHUGH and Ranking Member VIC SNYDER for their continued support and interest in this issue.

While H.R. 4546 does not allow for the complete elimination of the current offset, it does provide for a substantial concurrent receipt benefit and it is a tremendous step forward in our fight to repeal the current inequitable offset. I urge my colleagues to support the Bob Stump National Defense Authorization Act.

□ 1430

Mr. SKELTON. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MCNULTY).

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

Mr. MCNULTY. Mr. Chairman, I rise in support of the Bob Stump National Defense Authorization Act, which will support all of our men and women in uniform and also the Crusader program.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER. Mr. Chairman, I thank the gentleman from Missouri (Mr. SKELTON) for yielding me this time.

Mr. Chairman, this bill today is one of the most important pieces of legislation that this Congress will consider, and I want to recognize the leadership of the gentleman from Arizona (Chairman STUMP), for his leadership, as well as the leadership of our ranking member, the gentleman from Missouri (Mr. SKELTON). The bipartisan approach that this committee has utilized to craft this bill exemplifies our bipartisan and our unwavering commitment to winning our Nation's war against terrorists.

We also in this bill take major steps forward in providing our Armed Forces with the tools and the resources they need to protect our national security interests around the world. Earlier this year our military chiefs testified before our committee and identified over $25 billion in unfunded requirements for the upcoming fiscal year. Our committee was not able to address every need on the chiefs' list, but I am pleased that we addressed many of the issues, particularly in the areas of quality of life, readiness and modernization, as well as the deficiencies that the Department identified necessary to wage our war on terrorism.

Over the last few years, one area of particular concern to me has been the continued reduction in troop end strength. In the post-Vietnam War era, the active duty military peaked at 2.2 million personnel. Today it is less than 1.5 million. Last year, each of our military services entered the war on terrorism with personnel shortages, a situation that has only worsened due to the heightened operational tempo required around the globe.

I commend the ranking member, the gentleman from Missouri (Mr. SKELTON), for his leadership in advocating an increase in troop strength; and I am pleased that this bill contains an increase of 13,000 in troop authorization above last year's level.

Mr. Chairman, I believe this is an important piece of legislation that deserves the support of the entire Congress. I urge adoption of this legislation.

Lastly, this legislation strengthens our national security interests both at home and abroad by authorizing $7.8 billion for ballistic missile defense programs. The development of medium and long range ballistic missiles by North Korea, Iran, Iraq, and other rogue countries underscores the importance of developing a fielding theater missile defenses capable of defeating these threats as soon as possible. Protecting our country and troops deployed in theater from a ballistic missile attack should continue to be a priority, and I applaud the commitment that is being shown to field this technology in the near term. Mr. Chairman, I especially want to emphasize the importance of fielding the Department of Defense's highest theater missile defense system, the PAC–3. When you look at spectrum of known threats around the world, and focus on those areas where we either have personnel or could likely have troops deployed, it's hard to ignore the fact that most credible ballistic missile threats would be thwarted by the PAC–3 system. Consequently, amendments will be offered by Mr. SPRATT and Mr. HUNTER a little later that seek to add money to this program. I am hopeful that you will support this effort and join with us in ensuring that our troops are adequately protected against these emerging threats.

Mr. Chairman, we are at an important juncture with respect to funding our military and providing them with the resources necessary to effectively wage our war on terrorism. This bill acknowledges the challenges we face and seeks to respond. I urge my colleagues to support this bipartisan bill.

Mr. STUMP. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. MCHUGH), the chairman of the Subcommittee on Personnel.

Mr. MCHUGH. Mr. Chairman, May marks National Military Appreciation Month, and I can think of no appropriate way to recognize it than to rise in strong support of the National Defense Authorization Act for Fiscal Year 2003. I especially commend for my colleagues' consideration and support the military personnel provisions of the bill that address continuing realities and challenges by making improvements in the end strength, compensation, personnel and health care systems of the Department of Defense.

Let me highlight three of those most important areas. First, while fully supporting the efforts of the Secretary of Defense to reduce operational and mission requirements, this bill reflects the view that the war on terrorism will be a long-term effort and that some growth in military manpower is prudent at this time.

Therefore, the bill represents the bipartisan views of all of us, including the gentleman from Missouri (Mr. SKELTON), who was a leader on this, and recommends an increase in active duty end strength of nearly 1 percent, or 12,650, above fiscal year 2002 levels. That is the largest single year growth in active end strength since 1985 and 1986. To support the added strength, the bill provides an additional $550 million as well as increasing National Guard and Reserve component full-time manning by some 2,400 personnel.

Secondly, the bill provides a military pay raise, as proposed by the President, of 4.1 percent across-the-board for all personnel, one-half of 1 percent more than the average pay increase for private sector employees.

In addition, it recommends targeted raises of 6.5 percent to critical mid-grade and senior noncommissioned officers and mid-grade officers, as well as housing rates that will reduce the out-of-pocket housing expenses from the current level of 11.3 percent to 7.5 percent in fiscal year 2003.

Finally, as the gentleman from Florida (Mr. BILIRAKIS) said moments ago, the third major provision I want to highlight would ensure that by 2007 all retirees rated by the Veterans Administration with 60 percent disabled or above will receive both their full military retired pay and their full VA disability pay. This initiative, known widely as concurrent receipts, represents the culmination of a multi-year, bipartisan effort to restore justice in veterans' compensation using the $5.8 billion provided by the House budget resolution for fiscal year 2003.

In closing, Mr. Chairman, let me thank the ranking member of the subcommittee, the gentleman from Arkansas (Mr. SNYDER), for his leadership, for his very active involvement, as well as all members of both sides of the aisle of the Subcommittee on Military Personnel who have a good deal to be proud of in this fine mark and in this great bill.

Mr. Chairman, I urge all Members to join us in support of this very fine measure.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding me this time. It is a personal privilege to stand in support of the piece of legislation named in honor of a patriot, the gentleman from Arizona (Mr. STUMP), who has served our country so very well. I am honored to support this bill in his name, and thank the gentleman from Missouri (Mr. SKELTON) for his contribution.

America stands today as perhaps the greatest military power in global history; but as we have learned in the last 7 months, even great powers are faced with great challenges. I support this bill because I believe it affirms two of our greatest strengths, and it begins to deal with two of our greatest challenges.

First of all, it affirms the strength that is the most premium strength of the American military structure, the men and women who serve their country. By raising the pay of those men and women by 4.1 percent, by supplementing their medical and other benefits considerably, although not enough, this bill is a good step in the right direction.

Second, as a member of the Subcommittee on Research and Development, I am particularly pleased that we have before us today a bill that will make the greatest investment in research and development in our Nation's history. In particular, I am pleased with the 20 percent increase in the DARPA funding accounts, which I think bring out the very best of America's university sector, private sector and government sector.

With respect to challenges, I believe that the new Northern Command structure that is implemented in this bill is a positive step toward meaningful homeland security. I look forward to working with the Pentagon and my fellow members of the committee in making that command structure effective in homeland security.

Finally, the bill begins to grapple with the very real problem with missile defense. There are those of us who believe that missile defense is necessary and appropriate, but there are some disagreements over how to implement it. Because of the bipartisan leadership of this committee, I believe that we have a constructive approach to bridging those differences and managing this challenge.

In short, I believe this is a bill that every Member of both political parties can support with pride that will help us carry forward in meeting the very great challenges our country faces today. I urge support of the bill.

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

Mr. Chairman, it was the Roman orator Cicero who once said that the greatest of all virtues is gratitude, and let me again express gratitude to the gentleman from Arizona (Mr. STUMP) for his tireless and skillful efforts in leading our committee, and in his contributions to the United States Congress through the years. We are very proud of him and thank him for what he has done for us, and the role model he has been for the rest of the Members, both Democrat and Republican.

Let me also say a word of thanks and gratitude to the Committee on Armed Services, which I believe is the most bipartisan committee in this body. There are times we have partisan disagreements, but we do attack the various issues as professionals and as representatives of different parts of our country.

But most of all, I think we as a body need to express thanks and gratitude to the young men and young women in uniform. That is the purpose of our being here today. It is the United States Constitution that charges us here in Congress to raise and maintain the military of the United States. The military of the United States is reflected by young people in various colors of uniform all wearing the American flag on their sleeve. So we thank them, we thank their families, and we hope that the piece of legislation that we pass today will be a benefit to them, encouraging them to keep doing a good job and staying the course, and just a word of thanks to them for their determination, dedication and patriotism.

With that, Mr. Chairman, again a special thanks to the gentleman from Arizona (Chairman STUMP).

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

Mr. STUMP. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. KIRK).

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

Mr. KIRK. Mr. Chairman, I want to also thank the gentleman from Arizona (Mr. STUMP) and our other defense leader, the gentleman from Missouri (Mr. SKELTON), for this legislation. This bill supports President Bush and Secretary Rumsfeld, who commands our troops currently in battle. It supports our Naval training at the Navy's only boot camp at Great Lakes, Illinois.

It advances our efforts to combine Naval Hospital Great Lakes with North Chicago VA to help out veterans and active duty health care.

It protects our air crews over Afghanistan and Iraq with improved tactical Navy electronic warfare aircraft, and it supports our fellow allies to meet the missile threat, especially giving early warning eyes in the sky to Israel and Arrow anti-missiles to shoot down SCUDs. It is a good piece of legislation; it deserves our support for the fundamental mission of the Federal Government to defend our country.

Mr. Chairman, I rise in strong support of the Bob Stump National Defense Authorization Act. This bill supports the efforts of President Bush and Secretary Rumsfeld to modernize and strengthen our military. The bill supports the needs of our men and women in uniform, ensuring that they receive better pay, have better equipment at their disposal, have a better quality of life, and are provided with all the tools necessary to complete their missions. The effects of these initiatives will be appreciated by servicemembers around the world, from the recruits currently in my district at the Great Lakes Naval Training Center to the Special Forces troops operating in the mountains of Afghanistan.

Additionally, this bill strongly supports electronic warfare and the EA–6B Prowler, our Nation's lone remaining electronic jamming aircraft. The Prowler is integral to successful airborne strike operations and is often the first aircraft in theater and the last aircraft to leave. Without the Prowler, our aircrews would be vulnerable to a wide variety of threats from integrated air defenses and advanced surface-to-air missiles. In support of the aging Prowler fleet, this bill authorizes $85.8 million to procure and install wing center sections and outer wing panels, both of which have suffered from fatigue and forced the grounding of eight aircraft.

$35 million is included to procure advanced USQ–113 jammers, which will enhance that ability of the Prowler to cut off enemy communications. I am also encouraged that $29 million are included to procure band 9/10 transmitters, which will enhance Prowler capabilities.

Perhaps most importantly, H.R. 4546 includes an increase of $10 million to continue efforts to develop a successor to the Prowler.

Mr. Chairman, I strongly support our men and women in uniform, our national defense, and this bill. I encourage my colleagues to do the same.

Mr. STUMP. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. JEFF MILLER).

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

Mr. JEFF MILLER of Florida. Mr. Chairman, I rise in support of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, H.R. 4546.

The legislation remedies a long-committed wrong that has been used against our retired military veterans for many years. By providing $5.58 billion over 5 years towards retiree benefits, H.R. 4546 begins full concurrent receipt for veterans suffering from a disabled rating 60 percent or greater. These individuals have given decades of their life and service to this great country, and they will begin to receive their earned retired pay along with their earned disability payment.

This agreement builds upon the work of the Committee on Veterans Affairs and the Committee on Armed Services over the last couple years, and finishes the work done last year that made the policy change.

Due to the meticulous work by the Committee on the Budget, the requirement to have a full budget offset is no longer needed, and that section has now been removed as a stipulation that claims must be made within 4 years of military separation.

Mr. Chairman, I am proud to be a member of the Committee on Armed Services and proud to support this fiscal year 2003 defense authorization, H.R. 4546.

Mr. STUMP. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. BUYER).

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

Mr. BUYER. Mr. Chairman, I thank the gentleman from Arizona (Mr. STUMP) for all his hard work. I served with the gentleman when he chaired the Committee on Veterans' Affairs, and I think it is appropriate that this defense bill is named after him. And I would say to the gentleman from Missouri (Mr. SKELTON), you two together have put before this Congress another quality product on behalf of the men and women who serve our Nation.

I thank the gentleman from Pennsylvania (Mr. WELDON), as chairman of the Subcommittee on Procurement. The gentleman from Mississippi (Mr. TAYLOR) and I co-chaired the Guard and Reserve Caucus for many years, and serve in that caucus, and a big part of our mark was accepted, just like the gentleman from California (Mr. HUNTER) used to do for us, and there are so many Guard and Reserve. There are so many things for the active force.

So it is not only the procurement mark, but also military construction, and what the gentleman from New York (Mr. MCHUGH) did with regard to end strength, I thank the gentlemen. It is a very good mark. I ask all Members to support the product of the gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON). It is quality work.

Mr. Chairman, I rise in strong support of H.R. 4546; the Bob Stump National Defense Authorization Act for Fiscal Year 2003.

America is at war, our military personnel are in harm's way, and our Nation is facing dangerous and difficult threats.

September 11, 2001, now marks the most lethal single attack on the United States in our Nation's history.

The Bob Stump National Defense Authorization Act demonstrates strong bipartisan commitment to America's soldiers, sailors, airmen, and Marines who are fighting the global war against terrorism.

President George W. Bush stated and I quote,

Nothing is more important than the national security of our country, nothing is more important. So nothing is more important than our defense budget.

I strong agree.

This National Defense Authorization Act goes beyond the President's request to improve homeland security, support U.S. service members, and increase military readiness and modernization.

It is fitting that this Defense Authorization Act; the largest real increase to defense

spending since 1966; be named after my good friend, Chairman BOB STUMP.

I have had the privilege of working along side BOB, and the opportunity to witness his steadfast support of our Nation's military. We share the same values and beliefs; duty, honor, courage, and commitment to God, country, family, and our fellow man. His leadership will be missed.

Equally fitting is the support H.R. 4546 provides to addressing the needs of the National Guard and Reserves.

Today, there are over 80,000 Reservists and National Guard personnel on active duty from 50 States, the District of Columbia, and Puerto Rico supporting the global war on terrorism. They are a critical component of the total force and vital for our homeland's security.

On behalf of Congressman TAYLOR and myself as cochairs of the National Guard & Reserve Components Caucus, we extend our thanks to the subcommittee chairman and ranking members for their support to the National Guard and Reserves.

The National Guard and Reserve Components Caucus, representing 158 Members of Congress, has organized member support for legislative initiatives dealing with Reserve Components, operations, programs, and policies.

Now in its seventh year, the Reserve Components Caucus, has a proven history of working with and assisting the House Armed Services Committee.

H.R. 4546 goes a long way to support National Guard and Reserve personnel, readiness, modernization, and military construction.

National Guard and Reserve Force personnel strength is increased by adding more than 2,450 full-time military personnel to support the Army National Guard, Army Reserve, Air National Guard, and Air Force Reserve. Additionally, it increases Naval Reserve unit strength by 800 part-time military personnel.

H.R. 4546 also addresses significant personnel, compensation and benefits improvements including a minimum 4.1 percent pay raise for all active, National Guard, and Reserve personnel.

It extends the eligibility period for Selected Reservists' use of the Montgomery GI bill an additional 4 years.

H.R. 4546 also directs a comprehensive study of the rights, benefits and entitlements of Reservists and their dependents.

National Guard and Reserve quality of life improvements in this Defense Authorization Act also include over $510 million for military construction.

National Guard and Reserve Equipment requirements still reflect a $9 billion shortfall, however, H.R. 4546 provides over $470 million for Guard and Reserve equipment procurement above the President's Budget submission.

On behalf of the Reserve Components Caucus, I thank Chairman WELDON for his support in improving Guard and Reserve modernization.

This bill sends a strong signal to the world and recognizes the sacrifice and unselfish commitment of our service men and women in protecting America's cherished freedoms and liberties.

In short, this bill says to the American people that military service; active and reserve service, is critical for our Nation's security.

It is clearly another giant step in our continued efforts to improve quality of life, modernize the force, and improve readiness.

I urge my colleagues to support this bill.

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Mr. STUMP. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Chairman, I want to commend the gentleman from Arizona (Mr. STUMP) on the outstanding work that he has done to make America secure, but some of the rhetoric that I hear from the other side gives me pause and what comes to mind is how quickly we forget.

Some of the environmental concerns that have been raised are completely bogus, Mr. Chairman. When we have a situation where 16 or 17 miles of coastline cannot be used at Camp Pendleton, when we have a situation where soldiers have to draw a circle in the sand and stand there and pretend that it is a foxhole, we are not training our soldiers realistically. The success that we have seen in Afghanistan is the direct result of investment in training and personnel and in troops and in equipment. But that training cannot continue under the current environmental restrictions that we have.

This bill makes some commonsense reforms that allow our soldiers, sailors and airmen to prepare to wage and win war. I commend him for his leadership on this and his striking the delicate balance that recognizes the stewardship of the Department of Defense and the overarching mission that they have, which is to keep America secure.

For the past year, the Government Reform Committee has been investigating the growing number of restrictions, or encroachments, placed on training at military training ranges by environmental regulations, urban sprawl, international treaties and competition for limited airspace and frequency spectrum.

In May of last year the Government Reform Committee held it's first hearing on this issue titled ''Challenges to National Security: Constraints on Military Training''. In August of last year the Government Reform Committee on National Security, Veterans Affairs and International Relations, of which I am vice chairman, held a field hearing in my district at the Avon Park, Fl, Air Force Bombing Range to address the issue of military training range sustainability.

Our hearings have demonstrated that environmental regulations are among the most pervasive and burdensome constraints on military training. At a hearing last spring, for instance, the committee learned that 16 of 17 miles of coastland at Camp Pendleton, California, are off-limits for amphibious training due to a growing list of wildlife protections. Witnesses also testified that soldiers are not allowed to dig foxholes on some ranges, and instead must practice jumping onto circles marked with tape.

As the Defense Department has been forced to expand the amount of land set aside for protected species such as the fairy shrimp, the gnat-catcher, and the checker-spot butterfly, training lanes have become artificially narrow, Environmental laws and regulations have inhibited training at bases across the country and on the waters offshore. Fewer and fewer training areas are now available for realistic combat live-fire training.

When combat drills become predictable and repetitive, readiness declines. Our experience in Afghanistan has demonstrated that our success on the battlefield is directly related to the quality of our military training. We must ensure that well-intentioned environmental regulations do not lead to shortfalls on the proving ground that later become disasters on the battlefield. The changes proposed in H.R. 4546 are intended to save lives in real combat.

The issue is not readiness versus the environment. The issue is our commitment to our military men and women and their families. When we send our constituents or their sons, daughters, spouses, or parents into harm's way, we should do so only in the complete confidence that they are ready. They will only be ready if they are thoroughly and realistically trained. Our military men and women,and their families, have a right to expect that training, and we as a nation have an obligation to provide it.

H.R 4546 provides a common-sense change to laws that have overburdened the military and restricted training efforts. These are not broad waivers. There are no exemptions and no rolling back of decades of environmental law.

The committee mark is a good start, but more may need to be done. The current hair-trigger application of broadly defined environmental regulations has profoundly affected vital military research and development efforts as well. For example, a scientific study funded by the Pentagon showed that a new long-range, lower-frequency sonar designed to detect ultra-quiet enemy submarines would ''harass'' marine mammals under the existing definition. The Navy is now waiting for a letter of authorization from the Fisheries Service to allow use of the sonar. If the definition of harassment were changed, the Navy likely would have greater leeway in using the sonar without seeking permits or exposure to lawsuits.

The Navy should not need to get permits every time an aircraft carrier changes position and the military should not be exposed to lawsuits for allegedly ''annoying'' a marine mammal.

More than anything else, military readiness depends on realistic training. Constraints on military training and research are a growing challenge to our national security. To perform a constantly expanding range of missions—from peacekeeping to assaulting and holding a hostile beachhead—the men and women of our armed forces must train as they fight. They must train under conditions as much like the real thing as possible.

The issue is not readiness versus the environment. Our military men and women have all volunteered to go into harm's way—we owe it to them, and their families, to send them there trained to win. Training saves lives. In this time of war I urge my colleagues to make protecting the lives of our military men and women our highest priority. Supporting this legislation will do that. I urge passage of the bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I want to add my voice to the choir of opposition the National Defense Authorization Act of FY 2003. This bill provides appropriations for an increase in pay for our armed

services personnel, which I believe is very important for the security of our great Nation. However, I rise to oppose this legislation because it provides appropriations for an unproven ballistic missile defense. This is a flawed policy. If the United States was attacked by a long range nuclear missile, any feasible ballistic missile defense system would have less than 15 minutes to detect, track, and attempt to intercept the missile. Thus, this is a technologically daunting task. A top defense official has said that a successful U.S. missile defense system test, which was completed recently, did not realistically duplicate conditions of an actual attack. If our top military leaders think that this is a flawed policy, then we as elected officials should follow their recommendation.

The Defense Department has tested and retested this ballistic missile defense system, and each time the desired results have not been achieved. But yet, The President wants to continue funding this flawed policy. Therefore, I want to strongly support the Tierney amendment, which states that no funds for FY 2003 for the Department of Defense may be used for space-based national missile defense programs.

Additionally, I also strongly support Congressman MARKEY's amendment, which prohibits the use of funds to develop and test a nuclear earth penetrator weapon and also prohibits the use of funds in fiscal year 2003 for a feasibility study of a nuclear earth penetrator weapon.

In almost every case, post-test doubts regarding missile defense have been raised. Critics have charged that test results over the past two decades have been exaggerated by false claims of success and promises of performance that later proved false. Many tests were proven to have had their targets significantly enhanced to ensure the likelihood of success.

Furthermore, kinetic kill as a concept for destroying long-range ballistic missiles is even more problematic at this stage. There is no empirical evidence to support the contention that kinetic kill for ICBM defense will work. Despite the prowess of American technology, there are no quick, cheap or easy solutions in missile defense. Therefore, we should allocate funds for more pressing defense needs and spend our funds on systems that work and will enhance real security for all Americans.

Mr. STARK. Mr. Chairman, I rise in strong opposition to this Defense authorization bill. With the President's war on terrorism continuing and with budget deficits rising, why are we spending money on so many unnecessary programs? Just yesterday the administration admitted that some of these programs are no longer necessary, yet the Republican leadership would rather waste billions of dollars on defense projects that keep defense contractors swimming in money.

Earlier this week, I submitted an amendment to this bill that would have cut the $475 million to further research and develop the Crusader mobile howitzer project. Unfortunately, the Republicans refused to allow this amendment to be considered on the House floor. These Republicans are more interested in looking like they are strong on defense than they are in funding projects that can actually be used to defend our country. Even the Department of Defense has said it doesn't want the Crusader. If you don't believe me, look at the front page of today's Washington Post: Defense Secretary Rumsfeld says, ''We are going to cancel the Crusader.'' Rather than falling in line behind President Bush, as they have on virtually every other initiative proposed by this administration, the Republican leadership wouldn't even allow a debate about this program.

Why do I agree with the administration on a defense project? Let's look at some details. To date, we have spent $3.5 billion on an artillery system that doesn't have a prototype, fails to meet the operability requirements of the army, and would cost another $11 billion if we decided to purchase the system. Fully loaded, the Crusader weighs over 80 tons, so heavy that only the largest cargo plane we have could carry it, and just one at a time! Finally, howitzers like the Crusader are outdated weapons of warfare that are really only effective against large massed armies, such as those that were maintained by the former Soviet Union. There are few armies left in the world who use such WWII era tactics, and if in the future we happen to need these weapons again, the GAO has found that we can either upgrade the existing Paladin howitzer or purchase a German made system that fits the operational requirements of the Crusader.

But the Crusader is not the only program that shouldn't be funded in this bill. This bill also authorizes continued funding of the F–22, the Joint Strike Fighter, and an upgraded version of the F/A 18. With the upgrades of our existing F–15s and F–16s, our Air Force has air-superiority over any existing air force. While some argue that we need upgraded fighter aircraft to counteract improvements in surface to air defense systems, do we really need three different planes? The cost savings of just going with one of these systems instead of three would be astronomical. Not only would we stop throwing billions more dollars at defense contractors, we would save billions more by not having to purchase parts for three different planes and to hire three different sets of mechanics to service them. Finally, cutting these extraneous programs will further integrate our armed forces, a goal specifically mentioned by Secretary Rumsfeld in his speech at the Pentagon yesterday.

This bill spends too much money on programs that will do nothing to protect our citizens. Instead, it lines the pockets of defense contractors and sends our nation's financial health into further disarray. In the interest of national defense and fiscal security, I am voting against this bill and urge my colleagues to do the same.

Mr. BLUMENAUER. Mr. Chairman, there is no function of our national government more fundamental than defense of the Nation. Today, our national defense is more important than ever, and with this authorization bill, we are spending more on national defense than ever. In fact, the $393 billion this bill authorizes means the United States will be spending more on our military than do the next 25 nations combined.

There is no question this bill spends enough to do the job. The question is whether the money is being spent in ways that will do the right job. There is a great debate abroad in the land about the nature of the threats our Nation faces, and the best approaches to dealing with those threats. There is a robust discussion about honoring our responsibilities to those who have served this country; about the responsibility of the military, like the rest of the Federal Government, to play by the rules this Congress has established; and about the military's duty to clean up after itself by returning the lands it no longer needs to productive use for America.

However, that discussion and debate is not occurring in this House. The leadership has so tightly managed the rule for debate on this measure that the House will authorize the largest increase in defense spending since 1966.

We have failed our duty to the people to ask and answer the most fundamental questions: what unnecessary, wasteful systems and programs should be eliminated from this bill because they do nothing to enhance the security of the United States? What should be added in their place, to ensure that we uphold our duty to those who have served and ensure that we strengthen America with our defense investments?

On the first question, the answer is clear. We need to right-size the military for the security needs of the United States today. Unfortunately, in this $393 billion, there is too much money being spent on the wrong stuff.

Three examples, of many, should suffice to make the point. First, we should not be continuing to fund three tactical aircraft programs concurrently at a time when we have the preeminent fighter jet in the world—the F–15.

Second, the bill contains $7.8 billion for missile defense, including funding for initial deployment of a national missile defense system based in Alaska. We should be alarmed that we are not taking the time as a nation to have a thoughtful dialogue on all the potential ramifications of a national missile defense system before rushing ahead with deployment. Since President Ronald Reagan's famous 1983 ''Star Wars'' speech, the United States has spent roughly $100 billion on ballistic missile defenses. We should not be throwing good money after bad. September 11 showed us that there are many threats that are more realistic than that of a ballistic missile streaking across the ocean to land on our shores.

The third is perhaps the most outrageous example. Yesterday, Secretary of Defense Rumsfeld informed members of Congress of his decision to cancel the $11 billion Crusader program. This is a weapons system that Napolean would have loved that was designed for a war from an age long past.

The Army plans to create a mobile force capable of being deployed anywhere in the world in 96 hours, but the Crusader Mobile Howitzer is still too heavy to be lifted by any transport aircraft in our fleet. Neither of the two largest military cargo transports in operation—the C–5 and the C–17—is capable of carrying a complete Crusader. The weapon's designers say they have reduced the total weight of the system from 90 tons to ''only'' 73, but that was accomplished by removing the fuel and ammunition.

The Congressional Budget Office recommends killing the Crusader and purchasing a suitable alternative. The General Accounting Office has identified a German-made howitzer as a viable alternative to the Crusader. According to CBO, acquiring this off-the-shelf weapon would save $6.7 billion over 10 years.

The Crusader is more suitable for fighting Adolf Hitler than meeting the challenges of today. As one Bush adviser remarked, ''Why would you buy the same artillery pieces that

Napoleon would understand? It's all Industrial Age equipment.''

I submitted amendments to the Rules Committee to transfer funds from the Crusader to the cleanup of unexploded ordnance (UXO). These amendments would have supported Secretary Rumsfeld's decision on the Crusader and addressed a serious problem for the military, UXO, which is both a long-term liability and a short-term operational and public relations nightmare.

In addition to these examples of unwise and wasteful expenditure, this bill authorizes unnecessary and destructive waivers of important environmental protections essential to Americans' health and the health of America's land and water. During my time in Congress, I have worked to compel the Federal Government to lead by example. This bill goes against everything I have been working toward. If we exempt the largest landowner in the country from environmental regulations, how can we expect anyone else to follow our laws?

The Department of Defense wants to exempt itself from many environmental laws. This is an important decision, and should involve debate and consideration by all stakeholders. Unfortunately, the Department and their congressional supporters have circumvented the committee process to give us the provisions in this bill.

This bill contains sweeping new exemptions for activities under the Endangered Species Act, the Migratory Bird Treaty Act, and the Wilderness Act, important environmental protections that took years and much debate to put in place. This action should at least warrant a debate in the relevant committees. I am also disappointed that the rule on this bill does not even allow for discussion of these significant environmental exemptions.

No one will argue that the U.S. military does not provide an important service, and that its ability to operate is imperative. However, in preparing itself to protect this country, the Department of Defense should not be allowed to destroy the environment that American public cherishes and the clean and healthy communities that it demands.

The second question we should have more productively discussed in this House is what we could better have done with the enormous resources committed by this legislation. One answer is to better provide for the needs of those who have served our country. Our priorities should include funding concurrent receipts, which enable retirees who were injured in the line of duty to receive both their deserved retirement pay and disability payments. That is the number one issue I hear about from military retirees in my district. I am pleased that this bill starts that process by compensating retirees who are 60 percent or greater disabled, but I firmly believe we could have done more.

A second example, a special area of interest to me and one that has been neglected by all of us for too long, is unexploded ordance. For 2 years now, I have been pursuing remedies to the problem of unexploded ordnance—the bombs and other munitions that didn't go off as intended and are subsequently buried or litter the landscape. There are some 2,000 former military properties in every state and nearly every congressional district where these hidden dangers lurk. This is a prime example of the need for the Federal Government to be a better partner and clean up after itself.

Last year, we succeeded in requiring a prioritized nationwide inventory of UXO-contaminated sites. This year's directs the Department of Defense to designate a single point of contact for UXO. That authority may be delegated no further than the Under Secretary of one of the military departments. In addition, this bill contains language calling for an independent advisory and review panel for UXO matters. All of these provisions are part of the legislation Representative RILEY and I introduced last year, the Ordnance and Explosive Risk Management Act (H.R. 2605).

The Defense Department has put forward a preliminary estimated cost-to-complete of $15 billion for munitions response at Formerly Used Defense Sites. Neutral observers say this cost could in fact run into the hundreds of billions of dollars. At the FY03 proposed funding level of $70 million, it will take 200 years to complete the job, even accepting the low DOD cost estimate. It is more realistic to assume costs over a hundred billion dollars and more than a thousand years to finish the job. The delay is absolutely unacceptable for the environment and the American people.

Those 2,000 sites are at locations nationwide, including Spring Valley right here in the District of Columbia which has munitions remnants left over from World War I weapons testing, and Five Points Outlying Field in Arlington, TX, where people in a new housing development are finding live ordnance in their gardens.

These sites are a legacy of past military activities; it is our nation's responsibility to clean them up. They not only constitute an environmental hazard; documentation has been found detailing at least 65 deaths in this country by accidents with UXO.

We are all profoundly aware of the broader implications of UXO across the globe. As we address the problem at home, we have the potential of sharing our technology and helping to solve UXO problems around the world. Placing greater emphasis on the problem of UXO and focusing a small portion of federal defense spending on it can truly have a transformational effect on the cleanup of tens of millions of acres in the United States. Such action can also impact the development and deployment of new technologies that will save millions of innocent civilians from death and dismemberment in some of the most distressed areas of the world.

There is much that we could do to strengthen and better protect America with the enormous resources authorized in this bill. There are many things authorized in this bill that threaten Americans' health and safety or waste tax dollars with no benefit to our country. We must do better in shaping our Nation's defense policy.

I vote ''no.''

Mr. JEFF MILLER of Florida. Mr. Chairman, I rise today in support of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, H.R. 4546.

Mr. Chairman, yesterday, in Pensacola, FL, the Navy suffered an air training accident whereby seven military and civilian contractor personnel are missing at sea. And while the search continues, and we pray for a successful recovery, this event is a reminder of the risks our uniformed men and women endure—either at home or away. I believe this legislation does much to honor and reward military service and I am proud to be a member of the House Armed Services Committee and proud to have contributed to the work before us.

Mr. Chairman, this legislation remedies a wrong, long committed against our retired military veterans. By providing $5.58 billion, over 5 years, toward retiree benefits, H.R. 4546 begins full concurrent receipt for veterans suffering from a disabled rating 60 percent or greater. These individuals, who have given decades of their life, serving this great country, will begin to receive their earned retired pay along with their earned disability pay.

This agreement builds upon the work of many people, the least not the veterans who walk these halls, write letters or otherwise make the effort to contact their Member of Congress. Due to the meticulous work of the budget committee, the requirement to have a full budget offset is no longer needed. Additionally, this legislation eliminates a stipulation that disability claims must be made within four years of military separation, effectively enacting my bill, H.R. 3620.

Navy training, an important function in my district, is supported in this bill by the authorization of 10 additional Joint Primary Air Training Systems, also known as JPATS. The Navy and Air Force will sue this system, consisting of both the T–6A aircraft and a ground-based training system, for primary pilot training. The T–6A will replace both the Navy's T–34 and Air Force's T–37B fleets, providing safer, more economical and more effective training for future student pilots.

Mr. Chairman, in closing I would like to thank Chairman STUMP for his service to this committee, to the men and women in uniform and to his country. It is my honor to have had the opportunity to serve under his leadership.

Mr. SIMMONS. Mr. Chairman, I rise in support of H.R. 4546, the Bob Stump National Defense Act of Fiscal Year 2003 and I ask my colleagues to support this important legislation.

Mr. Chairman, September 11 highlighted the fact that our military must remain the best trained and best equipped in the world. Our ability to stage Operation Enduring Freedom in South Asia is not the result of anything that happened since the attacks but are a result of years of training and management, tens of thousands of man-hours of research and development, and billions of dollars in testing and manufacturing. The defense budget pays not only for the fuel, munitions, and soldiers' salaries, but it pays for the investment in the weapons needed to fight and win the wars of the future, against any potential enemy in any part of the world.

For over 13 years, we have downsized our military because of cuts in our defense budget. We have decommissioned vessels rather than upgrade them and retired aircraft rather than build new ones. Our military was asked to do more with less. Our servicemen and women were asked to do more with less. We closed bases and gave up training areas, both irreversible and in many cases at great cost. It is no wonder that several years ago our soldiers and airmen began to leave the services in record numbers.

This strong and bipartisan legislation addresses many of these issues and reverses the trend of years past. It looks forward to the challenges of the future. this bill contains a 4.1 percent increase in basic pay with additional increases for mid-grade and senior noncommissioned officers and mid-grade officers.

It also works to honor the commitment our nation has to its veterans by eliminating current law provisions that cause military retirees who are eligible for veteran's disability compensation to have their retirement pay reduced. Veterans who are 60 percent or greater disabled will begin to receive concurrent pay phased in fully by 2007. As a veteran and having spent 30 years as an Army Reservist, I know that investments in our people are as important as any other aspect of our national defense.

This bill also addresses security and quality of life issues. It conveys almost $8.0 million to the Naval Submarine Base in Groton for base security; and $24 million for a 100 units of Navy housing for personnel and their families. This is a wise investment for the future.

Mr. Chairman, I have the privilege of representing the Second District of Connecticut here in Congress. The ''Submarine Capital of the World,'' Groton, is in my district. For over a century, designers and manufacturers in Groton have built submarines. Our nuclear ''silent service'' is made up of the most sophisticated and complex systems ever created by man. In the 1980s, workers in my district built on average over 5 submarines a year, establishing American dominance of the seas around the world and providing the backbone of our strategic nuclear deterrence with the *Trident*-class ballistic missile submarines. My district also is home to an assembly plant for military aircraft engines that power the aircraft that make our air force second to none in the world. Just as important are hundreds of competitive small businesses and high-tech firms that keep our military on the cutting edge.

While I worked for a higher level of procurement funding, I am satisfied with what this bill does for our military and what it does for the State of Connecticut. Connecticut fares especially well with the procurement provisions authorizing funds for another Virginia class submarine, the *Trident* Class to SSGN conversion program, additional engine modifications of F–15s, and F–16 fighter aircraft, and the acquisition of thirty-nine H–60 variant helicopters for the National Guard and Navy. Important research programs at University of Connecticut will continue to bring new technology to the warfighter, and better equipment and medicine to assist and protect our troops in the field.

I am also pleased with the language in the bill that authorizes the Department of Defense, pending settlement of an outstanding legal case, to enter into a multiyear contract for the procurement of *Virginia* Class nuclear attack submarines. Using modern and innovative design and manufacturing techniques, the *Virginia* Class submarine program is using methods and processes that are likely to make it a model for future large-system acquisition programs. Multiyear procurement promises to save both jobs and taxpayer dollars.

Mr. Chairman, testimony received by the House Armed Services committee by both the Secretary of the Navy, the Chief of Naval Operations, other DOD officials and respected defense analysts have warned us of the impending force structure problem we are heading as our submarines begin to reach the end of their service lives or require refueling overhauls. Without increasing the procurement rate to two per year, our submarine force will not meet the mission and operational requirements determined as necessary by our military. Carrier and amphibious groups will not have the required protection and firepower of our submarine fleet. The smartest and most cost-effective way to rebuild our submarine force is multiyear contracting. It is good for the workforce, it is good for the taxpayer, and it is good for our men and women in the military.

Mr. Chairman, this bill is a well-crafted bill to meet many of the needs of our military. I urge my colleagues to support the bill.

Mr. SOUDER. Mr. Chairman, I rise in support of this legislation and wanted to briefly comment as one of the Chairs of the Speaker's Task Force on a Drug Free America and chairman of the Drug Policy Subcommittee on the counterdrug provisions of the bill.

First, I want to commend the Armed Services Committee for its work on the bill and support for counterdrug programs. The Department of Defense plays a critical role in our nation's efforts to keep drugs off our streets, particularly with respect to interdiction programs in narcotics source and transit zones in the Caribbean and South America and in providing training and resources to our allies. There has been concern that the Department intended to substantially reduce its support for these programs, and I very much want to thank the committee for its continued careful attention to ensure that the Defense Department continues its important involvement. My subcommittee and the Speaker's Task Force will continue to follow this carefully, and we look forward to continuing to work with the Department and the Committee.

Second, I wanted to emphasize and associate myself with the guidance contained in the committee's report on this bill with respect to narcotics in Afghanistan. John Walters, the Director of the Office of National Drug Control Policy, recently stated in an interview that our military involvement in Afghanistan has given us the first meaningful opportunity to address the global heroin trade. Ninety percent of the world supply of heroin is grown in Afghanistan, and this huge supply inevitably affects the entire world market. I am concerned at public reports and briefings obtained by my staff which suggest that the Defense Department and the Central Command have been unwilling to participate vigorously in drug interdiction and eradication efforts.

While I agree that the protection of our forces must be the paramount concern, it also seems apparent that the Defense Department can make some important contributions not only to drug eradication, but also to the military goal of cutting off the source of economic support for potential enemies. As we know, the Taliban received substantial financial support from the drug trade. It makes no sense to leave as potentially lucrative a source of funding for future terrorists as the poppy crop in Afghanistan.

I also want to support the committee's report language on this issue with respect to targeting. It expressed concern with the lack of targeting of opium storage facilities in Afghanistan that were identified early in the conduct of Operation Enduring Freedom. The committee shared our understanding that U.S. Central Command had deemed that opium in any form did not constitute a credible military target. I agree strongly with its conclusion that the Department of Defense should review and revise its policy in this regard to ensure that such targets are properly prosecuted in Afghanistan and any future conflicts.

Mr. Chairman, the Department of Defense must continue to play an active role in our drug control efforts, particularly in Afghanistan, and I hope that this bill will encourage it to do so.

Mr. BRADY of Pennsylvania. Mr. Chairman, I rise to support the FY03 Bob Stump National Defense Authorization Act and appreciate all the hard work my colleagues and my chairman did to produce a bill in support of our national defense.

One area of particular concern for me is the Maritime Administration's Title XI Vessel Loan Guarantee Program. I am pleased to see that we have decided to authorize $50 million to continue this valuable program, which sustains our national shipbuilding industrial base by supporting commercial shipbuilding. This is necessary in the face of foreign competition and subsidies and is good for all U.S. shipyards, large and small. In addition, this will also serve to maintain a skilled labor force critical to our defense industrial base.

I note that the committee expects that the Maritime Administration will place a priority on providing loan guarantees under the Title XI Ship Loan Guarantee Program for the construction of commercially viable vessels that are militarily useful, such as for highspeed sealift, or that meet specific requirements of Federal law, such as the requirement for double-hull tankers. These types of commercial projects would be the highest priority for continuing this program. There are many laudable projects, including the FastShip project in my congressional district, which should be supported by the Department of Defense and the Department of Transportation. Military useful projects, like FastShip, have always been a key element of the Title XI program. Highspeed sealift vessels are particularly important in light of the modern military's need for rapid logistical support.

I urge the Maritime Administration to fairly consider these projects for which applications have been filed so that these shipbuilding projects can go forward in our U.S. shipyards and built by our skilled American labor force. The Maritime Administration must consider all both the commercial and the military benefits of these projects by fairly and fully reviewing all available documents on current and future applications. The Maritime Administration is obligated to ensure the strength of our national security through the support of a strong merchant marine.

Finally, I would like to thank Chairman BOB STUMP for all his years of service to our country and for his hard work on this important bill. It has been an honor to serve with him and I am proud to call him my chairman. I urge all my colleagues to join me in supporting this bill and the Title XI vessel loan guarantee authorization.

Ms. LEE. Mr. Chairman, I rise in opposition to this bill.

Now more than ever, it is clear that cold war era thinking will not meet the security needs of today. But it is cold war thinking that continues to fuel our defense budget.

It is misguided thinking that seeks to put the United States back on the path toward renewed nuclear testing, when instead we would all be made safer if we would work toward nuclear nonproliferation.

It is misguided thinking that seeks to spend billions on the Crusader, a weapons system that the Secretary of State himself does not want, when we have so many profound needs here at home.

It is misguided thinking that seeks to allow the Department of Defense to ignore our existing environmental laws. The American public doesn't want fewer environmental protections. They want more.

It is misguided thinking to underfund important programs to destroy chemical weapons in Russia.

And, it is misguided thinking that pours billions into a missile defense system that we are rushing to deploy without fully considering either the enormous technical problems or the serious international repercussions.

As we abandon treaties and international agreements, we work against our own best interests by spurring on nuclear arms races and undermining proliferation and cooperation efforts.

I urge you, then, to oppose another $7.8 billion for missile defense and to oppose this bill.

Mr. SPRATT. Mr. Chairman, I support this bill, but I think an admonition about the budget is in order. We actually have one bill before us, while holding another in abeyance. The President requested a total of $396 billion for national security, primarily for the Department of Defense (DoD) and the nuclear weapons program run by the Department of Energy (DoE). The President asked us to set aside $10 billion of the DoD budget as a ''war reserve'' for actions in Afghanistan and elsewhere in the war on terrorism. For DoD, he requested a total of $379 billion, of which $10 billion is for the war reserve and $369 billion is the regular request.

There are two reasons for keeping separate the $10 billion request. One is to earmark funds for the war on terrorism, the other is not to merge into the base budget funding that may be non-recurring.

One of the bills approved by the House Armed Services Committee authorizes $3.8 billion, which is to be drawn from the $10 billion war reserve. But the $3.8 billion we are authorizing is actually part of the regular $369 billion request. In the main bill, we are authorizing DoD activities at the $369 billion level, but since $3.8 billion of the regular request is now being provided for in the other bill, we have $3.8 billion more in the main bill to be used for ships and other procurement needs, research and development, and member-interest items.

Here are the problems with this approach. One, we are actually authorizing $3.8 billion more than the President requested for regular DoD appropriations, and DoD will eventually need that money for the war on terrorism. I met with the DoD Comptroller, Secretary Zakheim, and he acknowledged that while the $10 billion war reserve was a good faith effort to account for the likely budgetary effect of the war, it is a low-ball estimate. So, if we use $3.8 billion of the $10 billion reserve for regular items, we will have to make up the $3.8 billion by adding that amount to the supplementals that are likely to come later to fully fund the war on terrorism. If the appropriators follow our lead, we will spend $3.8 billion more on defense than the President has requested, and add $3.8 billion more to the deficit and national debt.

Second, what happens if the appropriators do not follow suit, or if they are not allowed to do so by the House leadership? Then, we will have $3.8 billion in hollow BA (Budget Authority). We will authorize $3.8 billion worth of items that never get appropriated. This is not an idle concern because the White House and the Speaker are both resisting efforts by the Appropriations Committee to take up this $3.8 billion shift.

Another shift of funds comes in the military personnel account. This account is reduced by $810 million, and the money is shifted to other purposes. The DoD actuaries are likely in the next month to conclude that the military personnel budget overestimates the accrual payment for the Tricare-for-Life program. This is a program this committee established, and along with it, we instituted the accrual system to make sure the costs of this program are accounted for over the long term. If the actuaries do reduce it by that amount, the effect is minimal. But what if they reduce it by only $400 million? Then we will be shorting the military personnel accounts by $410 million, unless we shift the money back from the items to which it is transferred.

Committee staff asked DoD for a likely estimate of this adjustment and took the high end of the range indicated by DoD. If the actuaries come in lower, the adjustments will have to be made. Certain items now funded will have to be de-funded or cut. Congress should not get in the habit of trying to jump ahead of actuarial estimates in order to find savings to be used for other items.

There is a widespread sentiment that DoD needs more funding, even though the President's request for next year is the largest increase in twenty years. I share the sentiment, but question quite a few of the allocations in this bill. For example, if we took $70,000,000 out of projects like the space-based kinetic interceptor (on which we have spent millions already, to no avail), we could buy 24 PAC–3s and lower the purchase cost from $6.5 to $5.6 million per missile. The PAC–3 is the only missile defense system that we will deploy in the next five years, and it is a theater system, where the threat is clear and present. With only 20 PAC–3s deployed, and 72 in process of being procured, 24 additional PAC–3's could make a major difference to the defense of our troops in some conceivable scenarios in the very near future. Moving from the tactical to the strategic. I have long been concerned that we are under-funding the DOE's nuclear complex both for stockpile stewardship and environmental cleanup. The bill we are reporting does little to address these important areas.

I have always supported a strong defense, but we should bear in mind that our economy is the first instrument of our national defense. The federal budget constitutes 20 percent of our economy and has a great impact on it, as we saw during the 1990s. Each year for eight years, we reduced the budget deficit and then moved the budget into surplus; and every year for 120 straight months, the economy grew. In passing this bill, we take the first step in a defense budget that will cost $557 billion more than inflation over the next ten years. I recognize the need and the primacy we must give the defense of our country, and I do not think that we can be stinting about the cost of our war against terrorism. But I am concerned as to whether we can sustain over the long run all that we are supporting in this bill.

As we pass the bill authorizing a $48 billion increase in defense, the budget overall is moving toward a unified deficit of $150 billion this year. In other words, the federal budget in fiscal year 2002 will borrow and spend all of the Medicare surplus, all of the Social Security surplus, and still need to borrow $150 billion more. Revenue collections this year are lagging last year by $130 billion. For the first time since 1995, the Treasury must borrow money to make it through the first calendar quarter of 2002. These signs are all the more ominous when we remember that the first of 77 million baby boomers will retire in 2008; and when all are retired, the number of beneficiaries on Social Security and Medicare will double.

I agree that the defense budget takes precedence for now, but the federal budget has a rendez-vous with destiny that we cannot dodge. By shifting regular DoD funds to the war reserve and second-guessing actuarial payments, the bill we report sets precedents that I am not eager to establish, and it begs a big question: for how long can we sustain what we have started?

Mr. UDALL of New Mexico. Mr. Chairman today, the House is considering H.R. 4546, the Defense Authorization Act for Fiscal Year 2003. At a time when the men and women of our armed forces are spread across the globe defending our nation and helping to combat terrorism, this is a critically important piece of legislation that deserves to have a full debate on a wide range of issues that affect our fighting men and women and will determine how we defend America in the 21st Century.

Unfortunately, Mr. Chairman, the majority has once again rigged the system to prevent the minority from offering the American people a real debate on these critically important issues. Even more unfortunately, Mr. Chairman, is the sad fact that I'm not really surprised any more when the majority presents us with so few choices. This isn't the first time we've had sham rules on the floor, and most certainly, it won't be the last. Repeatedly, we are given fewer opportunities to offer amendments on the important legislation.

Mr. Chairman, today, once again I am saddened that the majority has prevented us from offering important amendments to improve this bill on a wide range of issues.

We won't have a real debate on whether or not we should change our national nuclear policy. I find it amazing that the Administration seems to be steering our nation towards expanding nuclear weapons, and we seem to be allowing this without any debate.

We also don't have a chance to debate the impact this legislation will have on the environment. We won't debate the Administration's attempt to gut our national environmental protection laws by exempting the Department of Defense from the Migratory Bird and Endangered Species Acts and by waiving protections found in the Wilderness Act.

As many of my colleagues have stated, these issues and many others are of such national significance, it's unconscionable that we aren't having an open and fair debate on them. This sorry excuse for a Rule provided for by the majority is patently unfair. And it's patently undemocratic.

These issues are too important to allow the majority to gag us once again.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to speak briefly on section 312 which says that an approved Integrated Natural Resource Management Plan (INRMP) that addresses the conservation needs of listed threatened or endangered species obviates the need to designate critical habitat under the Endangered Species Act. I would like to remind my colleagues of congressional intent

and statutory direction when we established INRMPs in the 1997 Amendments to the Sikes Act.

I strongly believe that we need to provide our men and women being sent ''in harm's way'' the most thorough and realistic readiness training as possible on our military installations. Let me also express my firm belief that military preparedness and sound stewardship of our natural resources, is not mutually exclusive, they are mutually beneficial. Appropriate land and natural resource management of our installations provides not only for sustainable use for military readiness, but for conservation of our natural resources on public lands under military department jurisdiction. This is the underlying philosophy of the amendments I sponsored to the Sikes Act in 1997 that directed the Secretary of Defense to prepare and implement INRMP's in cooperation with the U.S. Fish and Wildlife Service and respective State fish and wildlife agencies.

Specifically, the Sikes Act directs the Secretary of each military department to prepare and implement an INRMP for each military installation in the United States under the jurisdiction of the Secretary of Defense unless the Secretary determines that the absence of significant natural resources on a particular installation makes preparation of such a plan inappropriate. Section 670a(a)(2) directs that each INRMP shall be prepared ''in cooperation'' with the Secretary of the Interior, acting through the Director of the Fish and Wildlife Service, and with the head of each appropriate State fish and wildlife agency for the State in which the military installation is located. This section further provides that the resulting INRMP for the military installation ''shall reflect the mutual agreement of the parties concerning conservation, protection and management of fish and wildlife resources.''

I understand that DOD has, in practice, not always involved the other statutory parties in development of an INRMP at an early stage, but instead sought their concurrence to a completed draft. While such a policy might comport with the statutory direction as to ''mutual agreement of the parties,'' it does not comport with the ''preparation in cooperation with'' directive. Cooperation of the statutory parties, begun at the earliest stages of development of an INRMP, is the contemplation of the statute. Such cooperation should go far to reconcile potential differences, and I would like to remind the Department of Defense that we expect the process explicitly contemplated in the Sikes Act to be undertaken by the Department. While there are exemplary INRMPs reflecting this sincere level of involvement, the Department needs to re-commit itself to Congress' direction in the 1997 amendments to the Sikes Act by involving all three parties at the beginning, during development, and during implementation of INRMPs. Consensus building and problem solving throughout the process will most likely facilitate the ''mutual agreement'' required by the statute of the three parties.

Finally, I would like to express my strong concerns about the evolution of environmental management practices. I'm strongly against INRMPs becoming something like the environmental impact studies that are required today. Today, EIS documents have become a black hole of time, money and bureaucracy. EIS documents were once two-page documents of environmental consequences. Now EIS documents are thousands of pages long, cost millions of dollars and take years to prepare. Even when good faith efforts have been made to address the minutiae of endless environmental issues in the EIS process, the documents are often subject to litigation, being overturned or disregarded. I want to make it very clear that the creation of the INRMPs where not intended to become a continual EIS process, or as a justification for endless studies on environmental stewardship and management.

PROPOSAL FOR WESTERN ALASKA WORKFORCE DEVELOPMENT

1. Contact Information—a. Alaska Contact: Wendy Redman, University of Alaska, Box 755000, Fairbanks, Alaska 99775.

b. Congressional Office Contact: Ann Gibson, Congressman Don Young's Office, 2111 Rayburn, Washington, DC 20515, 225–5765.

2. Describe the organization's main activities and whether it is a public, private or non-profit entity. The University of Alaska is Alaska's land grant postsecondary institution and the largest public post-secondary institution in the state.

3. A brief description of the proposal: This is a proposal to continue workforce training in an area of Alaska economically devastated by the failure of the salmon industry. The training effort is to re-train former fisheries workers in other fields where there is employment available. The training areas are office occupations, construction, computer repair and nursing assistants.

The primary private economic base in Western Alaska was the salmon fishery. Beginning several years ago, the salmon runs have failed to materialize leaving a dire economic situation. This program is to train workers in new areas and lift their dependence from public assistance.

4. Project costs: The request is for $2.5 million which is all for training equipment, instructors and student stipends.

5. Other funding sources: The University of Alaska contributes approximately $500,000 to the existing training.

6. Federal funding sources: The program did not receive federal funding in FY02.

7. National significance: This program addresses the federal responsibilities when a disaster occurs to assist in economic recovery. It accomplishes this by training workers in new fields where there is employment. The program could be a model for other areas of the nation experiencing similar economic devastation, particularly rural areas.

Mr. ABERCROMBIE. Mr. Chairman, although I am disappointed in the rule before this body, I rise in strong support of the National Defense Authorization Act for Fiscal Year 2003, and urge my colleagues to support this important measure. I deeply regret the decision of the Rules Committee to prohibit several critical amendments from being considered here today.

I would first like to recognize our committee leadership, Chairman STUMP and Ranking Member SKELTON, for the bipartisan bill they have crafted to address the immediate needs of our Armed Forces. Our committee has a long tradition of working across party lines to ensure the readiness and well-being of our Armed Forces, and I am greatly pleased to have participated in yet another cooperative effort with my Armed Services colleagues.

We all know that Chairman STUMP has announced this intention to retire at the end of this Congress. His steadfast leadership, acknowledged in the title of this bill, will be missed, and I know that the entire House wishes him the best of luck in the future.

I would also like to commend my very good friend, JIM SAXTON, Chairman of the Military Installations and Facilities Subcommittee, whom I have been so fortunate to work closely with, both on Armed Services and the Resources Committees. His sincere concern for the quality of life of our troops, as well as his truly bipartisan, cooperative leadership, have guaranteed an equitable bill that directly answers the pressing needs for our military infrastructure.

I would like to thank the committee staff for their tireless work and invaluable expertise. These professionals have been working day in and day out, weekends included, for the past two months, to put together the best bill possible. I would especially like to thank the Military Installations and Facilities Subcommittee professional staff, George Withers and Tom Hawley. No subcommittee is better served than ours with dedicated, smart, and consummate staff.

As ranking member of the Military Installations and Facilities Subcommittee, I am especially concerned about the effect this bill will have on our military housing and infrastructure. Our Subcommittee labored hard to compensate for an anemic construction budget proposed by the President—a budget $1.7 billion lower than that put forward last year. From this highly unsatisfactory starting point, our Subcommittee added $425 million to fund projects vital to the Services. An ongoing campaign against global terrorism is not an excuse to abandon our campaign against substandard facilities and housing. Funding for military construction must match the rhetoric; otherwise, we will lose the battle for quality people willing to serve. Our people, and their living and working conditions, must continue to be our number one priority.

Given the military's current operational tempo, it is imperative that we show our appreciation for those who volunteer to go in harm's way. These men and women pledge to support and defend American democracy, both at home and abroad, often at great personal sacrifice and for significant periods of time. We owe it to them, and to their families, to keep our promise of increased safety and morale in the home and in the workplace.

In pursuit of such a goal, this bill authorizes $678.4 million—$17.7 million more than the President's request—for construction and improvement of 3,447 family housing units and the privatization of over 30,000 units. Privatization authorities, extended in last year's defense bill, provide our military accelerated opportunities to renovate and build vastly improved family housing developments with private sector capital and I applaud the continuation of this important program. Our committee also included $1.2 billion for construction of 49 new barracks and dormitories in the FY03 authorization and $8.6 million in H.R. 4547, the Cost of War Against Terrorism Authorization Act, for unaccompanied personnel housing in Qatar. Once again, attention to the living conditions of our single soldiers, sailors, airmen, and Marines has been a high priority for our committee, and I sincerely hope that we can bring all of our barracks up to the same excellent standard set by the Army's Whole Barracks Renewal at Schofield Barracks, Hawaii. I am especially pleased to note the $17.6 million provided to build Child Development Centers. This represents funding for four such

centers, $6.9 million and one more than recommended by the President's budget, and acknowledges the emphasis this Congress and the military places on the needs of service members with children. Military couples and single parents alike benefit when the military recognizes their specific needs and eases their child-care burdens.

Our achievements in military construction will be an ongoing effort aimed at providing quality living and working facilities for our entire military family, stationed at home and overseas. I know that under Mr. SAXTON's excellent stewardship, the Subcommittee on Military Installations and Facilities will continue to focus on raising the living and working standards for our Armed Forces. They have volunteered to protect our freedom. Now we must protect them by building safe, modern facilities for the 21st century military.

Again, I urge my colleagues to support this measure.

Mr. NUSSLE. Mr. Chairman, I rise today in support of H.R. 4546, the Bob Stump National Defense Authorization Act for Fiscal Year 2003. This important piece of legislation is consistent with the levels established in H. Con. Res. 353, the House-passed budget resolution. On March 20, this body passed a budget resolution that made available the budgetary resources for the largest increase in defense spending in two decades. We provided $393.8 billion in budget authority for national defense, including $10 billion for the expected war costs.

The principal reason for that increase, of course, was our unwavering commitment to win the war against terrorism. But in addition to combating terrorism, we provided a blueprint in the resolution to give every service member a 4.1-percent pay rise, increased housing allowances, and increased incentive pay. Also, and I believe this deserves particularly to be noted, under Republican leadership we kept our promises to America' veterans: For the first time in decades we broke the legislative logjam over concurrent receipt of military retirement pay and veterans disability compensation. The budget resolution provided the resources to phase in full concurrent receipt for retirees with 60 percent or greater VA disabilities. I am happy to say that the defense authorization bill under consideration today is completely consistent with the approach we took on concurrent receipt in the budget resolution.

Finally, section 201 of the budget resolution provided for a $10-billion reserve fund to continue military operations in fiscal year 2003. I am advised that the Armed Services Committee has opted to deal with that subject matter later in a separate bill, H.R. 4547, when the Pentagon provides more budgetary detail about how it plans to spend the $10 billion.

I close in noting that the House Budget Committee completed its work on schedule and provided a framework for timely consideration of the vital bill on the floor today. But as we all know, the other body still has not passed a budget resolution for fiscal year 2003. Given the other body's glacial slowness in doing the public's business, it is all the more important that the House show leadership and pass a resolution deeming the provisions of H. Con. Res. 353 to be in force.

I express my support for H.R. 4546.

Mr. FORBES. Mr. Chairman, as many people are now aware, the largest increase in defense spending in two decades, is not really an 'increase' so much as it is a 'payment past due' on a defense budget that was significantly under-funded in the 1990s. This outstanding debt is most easily seen in the Navy. It was the Navy that brought the Marine Expeditionary Units to the Afghanistan theater of operations, and it is the Navy that conducted 75% of the strike sorties flown in Afghanistan. As we speak, Navy assets are not just in the Indian Ocean, but also off the coasts of Somalia, Yemen, and the Philippines. The Carrier Battle Group was the force enabler in Afghanistan—and it will be the force enabler in the next theater of operations in the war on terror.

America's defense requires a combat credible expeditionary force. America's aircraft carriers with 2.5 acres of sovereign territory are just that. In the early part of the last century, President Theodore Roosevelt sent his 'Big Stick' fleet around the world to deter other nations from developing an aggressive stance towards the U.S. In the year 2002, we have sent our 'Big Stick' around the world to keep those that would terrorize America on the run. Now is the time for a 'Big Stick' budget and investments in carrier battle groups are crucial to maintaining our superiority over America's enemies—conventional, and unconventional.

Mr. HOLT. Mr. Chairman, this could be such a better bill if the committee had made many more amendments in order. There are major changes in defense policy in this bill that may become law without debate. The rule to stifle debate is not just a procedural outrage, it is contrary to our national security. I offered an amendment to the Rules Committee that was not made in order that would have eliminated funding for a program in the bill that does not merit the support of this Congress. My amendment would remove $7.5 million added to this bill for the Kinetic Energy Anti-Satellite—also known as the KE-ASAT—program. Like a giant fly swatter in space, this weapon would knock out enemy satellites.

The Department of Defense does not support KE–ASAT. President Bush requested no money for it. Former President Clinton line item vetoed funding for it in 1998. Defense Secretaries, Pentagon weapons advisory boards and independent defense analysts have all called KE–ASAT a horrendous waste. The GAO, in its examination of this program called KE–ASAT a program ''in disarray.''

Yet we continue to fund it. This money was added to the bill without debate, and, unfortunately, we will not have the opportunity to debate it today. I ask my colleagues: How many other meritorious defense needs could benefit from that $7.5 million? Any one of us could write a laundry list of other, better uses for this money, both in and out of the defense budget.

At this time, when our nation's military is facing so many challenges, it is simply unconscionable to waste money on systems like this. I respectfully urge my colleagues to make my amendment in order and give the Members of the House the opportunity to work their will on this subject.

Mr. UDALL of Colorado. Mr. Chairman, this bill is one of the most important measures that the House will consider this year. It is intended to set out our vision for the defense of our country in the years ahead—both in terms of policy direction and spending priorities. Unfortunately, the vision this bill puts forth is not one I can endorse, and so I cannot vote for it.

There is no doubt that September 11th changed the way we view our national defense. There is no doubt that more than ever, we must focus on defending our homeland against terrorism, we must support our military personnel, and we must give our military the training, equipment, and weapons it needs to beat terrorism around the world.

Like all of my colleagues, I remain steadfastly committed to our fight against terrorism. And yet, as this nation faces the most difficult threat it has faced in decades, I believe it is essential that we understand how our defense capabilities need to change to reflect new 21st century threats. I believe Secretary Rumsfeld is trying to refocus and reprioritize our defense programs along those lines, but clearly he isn't being assisted by some of our colleagues here in the House, who seem content to address new threats with Cold War-era technologies.

So my first objection to this bill is that although it funds defense programs at their highest levels since 1966, it doesn't present a coherent vision of how to realign our defense priorities. We need to make clear decisions about our defense spending, and this bill doesn't begin to consider the choices that must be made.

I have other objections to the bill. It includes provisions concerning the Endangered Species Act and the Migratory Bird Treaty Act, matters within the jurisdiction of other Committees, including the Resources Committee, but which that Committee had no opportunity to consider. There is broad-based support for existing environmental laws—as there should be—and these laws already allow case-by-case flexibility to protect national security. I find it simply unacceptable that neither our Committee nor the full House will have the opportunity to consider whether the changes that would be made by this bill are necessary or appropriate.

The bill also includes an entire title—Title XIV—that not only includes provisions dealt with in a bill referred to the Resources Committee, but also goes further to include matters within our Committee's exclusive jurisdiction. Many Armed Services Committee members themselves have said this was ''a procedural foul,'' but once again the Rules Committee has made it impossible for the House to consider changes. That is another reason I must oppose the bill.

I am also concerned that the bill endorses the President's recent review of the U.S. nuclear posture. That review includes some troubling provisions, such as the one to increase the speed at which nuclear testing could resume if needed. Another provision would reduce the U.S. nuclear arsenal to 1,700–2,200 weapons, but without destroying the weapons removed. I worry that simply storing weapons would encourage a similar move in Russia, where the government's control over its nuclear stockpile is considered less than secure. I also worry that the bill includes a minimum requirement of operationally deployed weapons at 1,700, which would not give the president flexibility in his current negotiations with Russia.

The bill would also urge the Administration to develop nuclear earth-penetrating weapons and nuclear-tipped ballistic missile interceptors. I believe we must be extremely cautious before we consider expanding applications of nuclear use. We all agree on the need to maintain the deterrent capability of our nuclear forces, but I fear the language in this bill could

begin to blur the distinction between conventional and nuclear weapons and thus increase the likelihood of nuclear use.

Finally, I am concerned that this bill would give the Pentagon's National Missile Agency exemptions from regulations for controlling and monitoring new weapons programs. Giving the Pentagon this exemption effectively eliminates the checks and balances that are so necessary in weapons development, and especially given the past technical failures and cost overruns in missile defense programs to date, I can't support a bill that includes this provision.

In short, Mr. Chairman, I don't question the urgent need to provide for this country's defense—I just think we need to do it right. This bill doesn't do it right, and so I can't support it.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 4546

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Bob Stump National Defense Authorization Act for Fiscal Year 2003''.

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

(1) Representative Bob Stump of Arizona was elected to the House of Representatives in 1976 for service in the 95th Congress, after serving in the Arizona legislature for 18 years and serving as President of the Arizona State Senate from 1975 to 1976, and he has been reelected to each subsequent Congress.

(2) A World War II combat veteran, Representative Stump entered service in the United States Navy in 1943, just after his 16th birthday, and served aboard the USS LUNGA POINT and the USS TULAGI, which participated in the invasions of Luzon, Iwo Jima, and Okinawa.

(3) Representative Stump was elected to the Committee on Armed Services in 1978 and has served on nearly all of its subcommittees and panels during 25 years of distinguished service on the committee. He has served as chairman of the committee during the 107th Congress and has championed United States national security as the paramount function of the Federal Government.

(4) Also serving on the Committee on Veterans' Affairs of the House of Representatives, chairing that committee from 1995 to 2000, and serving on the Permanent Select Committee on Intelligence of the House of Representatives, including service as the ranking minority member in 1985 and 1986, Representative Stump has dedicated his entire congressional career to steadfastly supporting America's courageous men and women in uniform both on and off the battlefield.

(5) Representative Stump's tireless efforts on behalf of those in the military and veterans have been recognized with numerous awards for outstanding service from active duty and reserve military, veterans' service, military retiree, and industry organizations.

(6) During his tenure as chairman of the Committee on Armed Services of the House of Representatives, Representative Stump has—

(A) overseen the largest sustained increase to defense spending since the Reagan administration;

(B) led efforts to improve the quality of military life, including passage of the largest military pay raise since 1982;

(C) supported military retirees, including efforts to reverse concurrent receipt law and to save the Armed Forces Retirement Homes;

(D) championed military readiness by defending military access to critical training facilities such Vieques, Puerto Rico, expanding the National Training Center at Ft. Irwin, California, and working to restore balance between environmental concerns and military readiness requirements;

(E) reinvigorated efforts to defend America against ballistic missiles by supporting an increase in fiscal year 2002 of nearly 50 percent above the fiscal year 2001 level for missile defense programs; and

(F) honored America's war heroes by expanding Arlington National Cemetery, establishing a site for the Air Force Memorial, and assuring construction of the World War II Memorial.

(7) In recognition of his long record of accomplishments in enhancing the national security of the United States and his legislative victories on behalf of active duty service members, reservists, guardsmen, and veterans, it is altogether fitting and proper that this Act be named in honor of Representative Bob Stump of Arizona, as provided in subsection (a).

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; findings.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Defense Inspector General.
Sec. 106. Chemical demilitarization program.
Sec. 107. Defense health programs.

Subtitle B—Navy Programs

Sec. 111. Shipbuilding initiative.

Subtitle C—Air Force Programs

Sec. 121. Multiyear procurement authority for C–130J aircraft program.

Subtitle D—Other Programs

Sec. 141. Revisions to multiyear contracting authority.
Sec. 142. Transfer of technology items and equipment in support of homeland security.
Sec. 143. Destruction of existing stockpile of lethal chemical agents and munitions.
Sec. 144. Report on unmanned aerial vehicle systems.
Sec. 145. Report on impact of Army Aviation Modernization Plan on the Army National Guard.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. RAH–66 Comanche aircraft program.
Sec. 212. Extension of requirement relating to management responsibility for naval mine countermeasures programs.
Sec. 213. Extension of authority to carry out pilot program for revitalizing the laboratories and test and evaluation centers of the Department of Defense.
Sec. 214. Revised requirements for plan for Manufacturing Technology Program.
Sec. 215. Technology Transition Initiative.
Sec. 216. Defense Acquisition Challenge Program.

Subtitle C—Ballistic Missile Defense

Sec. 231. Limitation on obligation of funds for procurement of Patriot (PAC–3) missiles pending submission of required certification.
Sec. 232. Responsibility of Missile Defense Agency for research, development, test, and evaluation related to system improvements of programs transferred to military departments.
Sec. 233. Amendments to reflect change in name of Ballistic Missile Defense Organization to Missile Defense Agency.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.

Subtitle B—Environmental Provisions

Sec. 311. Incidental taking of migratory birds during military readiness activity.
Sec. 312. Military readiness and the conservation of protected species.
Sec. 313. Single point of contact for policy and budgeting issues regarding unexploded ordnance, discarded military munitions, and munitions constituents.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 321. Authority for each military department to provide base operating support to fisher houses.
Sec. 322. Use of commissary stores and MWR retail facilities by members of National Guard serving in national emergency.
Sec. 323. Uniform funding and management of morale, welfare, and recreation programs.

Subtitle D—Workplace and Depot Issues

Sec. 331. Notification requirements in connection with required studies for conversion of commercial or industrial type functions to contractor performance.
Sec. 332. Waiver authority regarding prohibition on contracts for performance of security-guard functions.
Sec. 333. Exclusion of certain expenditures from percentage limitation on contracting for performance of depot-level maintenance and repair workloads.
Sec. 334. Repeal of obsolete provision regarding depot-level maintenance and repair workloads that were performed at closed or realigned military installations.
Sec. 335. Clarification of required core logistics capabilities.

Subtitle E—Defense Dependents Education

Sec. 341. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 342. Availability of quarters allowance for unaccompanied defense department teacher required to reside on overseas military installation.
Sec. 343. Provision of summer school programs for students who attend defense dependents' education system.

Subtitle F—Information Technology

Sec. 351. Navy-Marine Corps Intranet contract.
Sec. 352. Annual submission of information on national security and information technology capital assets.
Sec. 353. Implementation of policy regarding certain commercial off-the-shelf information technology products.
Sec. 354. Installation and connection policy and procedures regarding Defense Switch Network.

Subtitle G—Other Matters

Sec. 361. Distribution of monthly reports on allocation of funds within operation and maintenance budget subactivities.
Sec. 362. Minimum deduction from pay of certain members of the Armed Forces to support Armed Forces Retirement Home.
Sec. 363. Condition on conversion of Defense Security Service to a working capital funded entity.
Sec. 364. Continuation of Arsenal support program initiative.
Sec. 365. Training range sustainment plan, Global Status of Resources and Training System, and training range inventory.
Sec. 366. Amendments to certain education and nutrition laws relating to acquisition and improvement of military housing.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent end strength minimum levels.
Sec. 403. Authority for military department Secretaries to increase active-duty end strengths by up to 1 percent.
Sec. 404. General and flag officer management.
Sec. 405. Extension of certain authorities relating to management of numbers of general and flag officers in certain grades.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2003 limitation on nondual status technicians.

Subtitle C—Authorization of Appropriations

Sec. 421. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—General Personnel Management Authorities

Sec. 501. Increase in number of Deputy Commandants of the Marine Corps.
Sec. 502. Extension of good-of-the-service waiver authority for officers appointed to a Reserve Chief or Guard Director position.

Subtitle B—Reserve Component Management

Sec. 511. Reviews of National Guard strength accounting and management and other issues.
Sec. 512. Courts-martial for the National Guard when not in Federal service.
Sec. 513. Matching funds requirements under National Guard Youth Challenge Program.

Subtitle C—Reserve Component Officer Personnel Policy

Sec. 521. Exemption from active status strength limitation for reserve component general and flag officers serving on active duty in certain joint duty assignments designated by the Chairman of the Joint Chiefs of Staff.
Sec. 522. Eligibility for consideration for promotion to grade of major general for certain reserve component brigadier generals who do not otherwise qualify for consideration for promotion under the one-year rule.
Sec. 523. Retention of promotion eligibility for reserve component general and flag officers transferred to an inactive status.
Sec. 524. Authority for limited extension of medical deferment of mandatory retirement or separation for reserve officers.

Subtitle D—Education and Training

Sec. 531. Authority for phased increase to 4,400 in authorized strengths for the service academies.
Sec. 532. Enhancement of reserve component delayed training program.

Subtitle E—Decorations and Awards

Sec. 541. Waiver of time limitations for award of certain decorations to certain persons.
Sec. 542. Option to convert award of Armed Forces Expeditionary Medal awarded for Operation Frequent Wind to Vietnam Service Medal.

Subtitle F—Administrative Matters

Sec. 551. Staffing and funding for Defense Prisoner of War/Missing Personnel Office.
Sec. 552. Three-year freeze on reductions of personnel of agencies responsible for review and correction of military records.
Sec. 553. Department of Defense support for persons participating in military funeral honors details.
Sec. 554. Authority for use of volunteers as proctors for administration of Armed Services Vocational Aptitude Battery test.
Sec. 555. Annual report on status of female members of the Armed Forces.

Subtitle G—Benefits

Sec. 561. Voluntary leave sharing program for members of the Armed Forces.
Sec. 562. Enhanced flexibility in medical loan repayment program.
Sec. 563. Expansion of overseas tour extension benefits.
Sec. 564. Vehicle storage in lieu of transportation when member is ordered to a nonforeign duty station outside continental United States.

Subtitle H—Military Justice Matters

Sec. 571. Right of convicted accused to request sentencing by military judge.
Sec. 572. Report on desirability and feasibility of consolidating separate courses of basic instruction for judge advocates.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2003.
Sec. 602. Expansion of basic allowance for housing low-cost or no-cost moves authority to members assigned to duty outside United States.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.
Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.
Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.
Sec. 614. One-year extension of other bonus and special pay authorities.
Sec. 615. Minimum levels of hardship duty pay for duty on the ground in Antarctica or on Arctic icepack.
Sec. 616. Increase in maximum rates for prior service enlistment bonus.
Sec. 617. Retention incentives for health care providers qualified in a critical military skill.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Extension of leave travel deferral period for members performing consecutive overseas tours of duty.

Subtitle D—Retired Pay and Survivors Benefits

Sec. 641. Phase-in of full concurrent receipt of military retired pay and veterans disability compensation for military retirees with disabilities rated at 60 percent or higher.
Sec. 642. Change in service requirements for eligibility for retired pay for nonregular service.
Sec. 643. Elimination of possible inversion in retired pay cost-of-living adjustment for initial COLA computation.
Sec. 644. Technical revisions to so-called ''forgotten widows'' annuity program.

Subtitle E—Reserve Component Montgomery GI Bill

Sec. 651. Extension of Montgomery GI Bill-Selected Reserve eligibility period.

Subtitle F—Other Matters

Sec. 661. Addition of definition of continental United States in title 37.

TITLE VII—HEALTH CARE MATTERS

Subtitle A—Health Care Program Improvements

Sec. 701. Elimination of requirement for TRICARE preauthorization of inpatient mental health care for medicare-eligible beneficiaries.
Sec. 702. Expansion of TRICARE Prime Remote for certain dependents.
Sec. 703. Enabling dependents of certain members who died while on active duty to enroll in the TRICARE dental program.
Sec. 704. Improvements regarding the Department of Defense Medicare-Eligible Retiree Health Care Fund.
Sec. 705. Certification of institutional and noninstitutional providers under the TRICARE program.
Sec. 706. Technical correction regarding transitional health care.

Subtitle B—Reports

Sec. 711. Comptroller General report on TRICARE claims processing.
Sec. 712. Comptroller General report on provision of care under the TRICARE program.
Sec. 713. Repeal of report requirement.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Sec. 801. Plan for acquisition management professional exchange pilot program.

Sec. 802. Evaluation of training, knowledge, and resources regarding negotiation of intellectual property arrangements.
Sec. 803. Limitation period for task and delivery order contracts.
Sec. 804. One-year extension of program applying simplified procedures to certain commercial items; report.
Sec. 805. Authority to make inflation adjustments to simplified acquisition threshold.
Sec. 806. Improvement of personnel management policies and procedures applicable to the civilian acquisition workforce.
Sec. 807. Modification of scope of ball and roller bearings covered for purposes of procurement limitation.
Sec. 808. Rapid acquisition and deployment procedures.
Sec. 809. Quick-reaction special projects acquisition team.
Sec. 810. Report on development of anti-cyberterrorism technology.
Sec. 811. Contracting with Federal Prison Industries.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Sec. 901. Change in title of Secretary of the Navy to Secretary of the Navy and Marine Corps.
Sec. 902. Report on implementation of United States Northern Command.
Sec. 903. National defense mission of Coast Guard to be included in future Quadrennial Defense Reviews.
Sec. 904. Change in year for submission of Quadrennial Defense Review.
Sec. 905. Report on effect of noncombat operations on combat readiness of the Armed Forces.
Sec. 906. Conforming amendment to reflect disestablishment of Department of Defense Consequence Management Program Integration Office.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Authorization of supplemental appropriations for fiscal year 2002.
Sec. 1003. Uniform standards throughout Department of Defense for exposure of personnel to pecuniary liability for loss of Government property.
Sec. 1004. Accountable officials in the Department of Defense.
Sec. 1005. Improvements in purchase card management.
Sec. 1006. Authority to transfer funds within a major acquisition program from procurement to RDT&E.
Sec. 1007. Development and procurement of financial and nonfinancial management systems.

Subtitle B—Reports

Sec. 1011. After-action reports on the conduct of military operations conducted as part of Operation Enduring Freedom.
Sec. 1012. Report on biological weapons defense and counter-proliferation.
Sec. 1013. Requirement that Department of Defense reports to Congress be accompanied by electronic version.
Sec. 1014. Strategic force structure plan for nuclear weapons and delivery systems.
Sec. 1015. Report on establishment of a joint national training complex and joint opposing forces.
Sec. 1016. Repeal of various reports required of the Department of Defense.
Sec. 1017. Report on the role of the Department of Defense in supporting homeland security.
Sec. 1018. Study of short-term and long-term effects of nuclear earth penetrator weapon.
Sec. 1019. Study of short-term and long-term effects of nuclear-tipped ballistic missile interceptor.

Subtitle C—Other Matters

Sec. 1021. Sense of Congress on maintenance of a reliable, flexible, and robust strategic deterrent.
Sec. 1022. Time for transmittal of annual defense authorization legislative proposal.
Sec. 1023. Technical and clerical amendments.
Sec. 1024. War risk insurance for vessels in support of NATO-approved operations.
Sec. 1025. Conveyance, Navy drydock, Portland, Oregon.
Sec. 1026. Additional Weapons of Mass Destruction Civil Support Teams.

TITLE XI—CIVILIAN PERSONNEL MATTERS

Sec. 1101. Eligibility of Department of Defense nonappropriated fund employees for long-term care insurance.
Sec. 1102. Extension of Department of Defense authority to make lump-sum severance payments.
Sec. 1103. Common occupational and health standards for differential payments as a consequence of exposure to asbestos.
Sec. 1104. Continuation of Federal Employee Health Benefits program eligibility.
Sec. 1105. Triennial full-scale Federal wage system wage surveys.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Sec. 1201. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
Sec. 1202. Strengthening the defense of Taiwan.
Sec. 1203. Administrative services and support for foreign liaison officers.
Sec. 1204. Additional countries covered by loan guarantee program.
Sec. 1205. Limitation on funding for Joint Data Exchange Center in Moscow.
Sec. 1206. Limitation on number of military personnel in Colombia.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Prohibition against use of funds until submission of reports.
Sec. 1304. Report on use of revenue generated by activities carried out under Cooperative Threat Reduction programs.
Sec. 1305. Prohibition against use of funds for second wing of fissile material storage facility.
Sec. 1306. Sense of Congress and report requirement regarding Russian proliferation to Iran.
Sec. 1307. Prohibition against use of Cooperative Threat Reduction funds outside the States of the former Soviet Union.
Sec. 1308. Limited waiver of restriction on use of funds.
Sec. 1309. Limitation on use of funds until submission of report on defense and military contacts activities.

TITLE XIV—UTAH TEST AND TRAINING RANGE

Sec. 1401. Definition of Utah Test and Training Range.
Sec. 1402. Military operations and overflights at Utah Test and Training Range.
Sec. 1403. Designation and management of lands in Utah Test and Training Range.
Sec. 1404. Designation of Pilot Range Wilderness.
Sec. 1405. Designation of Cedar Mountain Wilderness.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title; definition.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Modification of authority to carry out certain fiscal year 2002 projects.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Modification of authority to carry out certain fiscal year 2002 project.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Improvements to military family housing units.
Sec. 2403. Energy conservation projects.
Sec. 2404. Authorization of appropriations, Defense Agencies.
Sec. 2405. Modification of authority to carry out certain fiscal year 2000 project.
Sec. 2406. Modification of authority to carry out certain fiscal year 1999 project.
Sec. 2407. Modification of authority to carry out certain fiscal year 1997 project.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized guard and reserve construction and land acquisition projects.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 2000 projects.
Sec. 2703. Extension of authorizations of certain fiscal year 1999 projects.
Sec. 2704. Effective date.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Changes to alternative authority for acquisition and improvement of military housing.

Sec. 2802. Modification of authority to carry out construction projects as part of environmental response action.
Sec. 2803. Leasing of military family housing in Korea.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Agreements with private entities to limit encroachments and other constraints on military training, testing, and operations.
Sec. 2812. Conveyance of surplus real property for natural resource conservation purposes.
Sec. 2813. National emergency exemption from screening and other requirements of McKinney-Vento Homeless Assistance Act for property used in support of response activities.
Sec. 2814. Demonstration program on reduction in long-term facility maintenance costs.
Sec. 2815. Expanded authority to transfer property at military installations to be closed to persons who construct or provide military family housing.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

Sec. 2821. Land conveyances, lands in Alaska no longer required for National Guard purposes.
Sec. 2822. Land conveyance, Fort Campbell, Kentucky.
Sec. 2823. Land conveyance, Army Reserve Training Center, Buffalo, Minnesota.
Sec. 2824. Land conveyance, Fort Bliss, Texas
Sec. 2825. Land conveyance, Fort Hood, Texas.

PART II—NAVY CONVEYANCES

Sec. 2831. Land conveyance, Marine Corps Air Station, Miramar, San Diego, California.
Sec. 2832. Boundary adjustments, Marine Corps Base, Quantico, and Prince William Forest Park, Virginia.

PART III—AIR FORCE CONVEYANCES

Sec. 2841. Land conveyances, Wendover Air Force Base Auxiliary Field, Nevada.

Subtitle D—Other Matters

Sec. 2861. Easement for construction of roads or highways, Marine Corps Base, Camp Pendleton, California.
Sec. 2862. Sale of excess treated water and wastewater treatment capacity, Marine Corps Base, Camp Lejeune, North Carolina.
Sec. 2863. Ratification of agreement regarding Adak Naval Complex, Alaska, and related land conveyances.
Sec. 2864. Special requirements for adding military installation to closure list.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Environmental and other defense activities.

Subtitle B—Department of Energy National Security Authorizations General Provisions

Sec. 3120. Short title; definitions.
Sec. 3121. Reprogramming.
Sec. 3122. Minor construction projects.
Sec. 3123. Limits on construction projects.
Sec. 3124. Fund transfer authority.
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Sec. 3126. Authority for emergency planning, design, and construction activities.
Sec. 3127. Funds available for all national security programs of the Department of Energy.
Sec. 3128. Availability of funds.
Sec. 3129. Transfer of defense environmental management funds.
Sec. 3130. Transfer of weapons activities funds.
Sec. 3131. Scope of authority to carry out plant projects.

Subtitle C—Program Authorizations, Restrictions, and Limitations

Sec. 3141. One-year extension of panel to assess the reliability, safety, and security of the United States nuclear stockpile.
Sec. 3142. Transfer to National Nuclear Security Administration of Department of Defense's Cooperative Threat Reduction program relating to elimination of weapons grade plutonium in Russia.
Sec. 3143. Repeal of requirement for reports on obligation of funds for programs on fissile materials in Russia.
Sec. 3144. Annual certification to the President and Congress on the condition of the United States nuclear weapons stockpile.
Sec. 3145. Plan for achieving one-year readiness posture for resumption by the United States of underground nuclear weapons tests.

Subtitle D—Matters Relating to Defense Environmental Management

Sec. 3151. Defense environmental management cleanup reform program.
Sec. 3152. Report on status of environmental management initiatives to accelerate the reduction of environmental risks and challenges posed by the legacy of the Cold War.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2003.
Sec. 3502. Authority to convey vessel USS SPHINX (ARL–24).
Sec. 3503. Financial assistance to States for preparation of transferred obsolete ships for use as artificial reefs.
Sec. 3504. Independent analysis of title XI insurance guarantee applications.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term ''congressional defense committees'' means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Army as follows:

(1) For aircraft, $2,300,327,000.

(2) For missiles, $1,693,896,000.

(3) For weapons and tracked combat vehicles, $2,372,958,000.

(4) For ammunition, $1,320,026,000.

(5) For other procurement, $6,119,447,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Navy as follows:

(1) For aircraft, $8,971,555,000.

(2) For weapons, including missiles and torpedoes, $1,916,617,000.

(3) For shipbuilding and conversion, $9,279,494,000.

(4) For other procurement, $4,527,763,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Marine Corps in the amount of $1,351,983,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement of ammunition for the Navy and the Marine Corps in the amount of $1,104,453,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Air Force as follows:

(1) For aircraft, $12,522,755,000.

(2) For missiles, $3,482,639,000.

(3) For ammunition, $1,176,864,000.

(4) For other procurement, $10,907,730,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2003 for Defense-wide procurement in the amount of $2,621,009,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Inspector General of the Department of Defense in the amount of $2,000,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 2003 the amount of $1,490,199,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 107. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $278,742,000.

SEC. 111. SHIPBUILDING INITIATIVE.

(a) USE OF SPECIFIED SHIPBUILDING AUTHORIZATION AMOUNT SUBJECT TO CONTRACTOR AGREEMENT.—Of the amounts authorized to be appropriated by section 102(a)(3) for fiscal year 2003, $810,000,000 shall be available for shipbuilding programs of the Navy either in accordance with subsection (b) or in accordance with subsection (c).

(b) DDG–51 AUTHORIZATION IF AGREEMENT REACHED.—If as of the date of the enactment of this Act the Secretary of the Navy has submitted to Congress a certification described in subsection (d), then the amount referred to in subsection (a) shall be available for procurement of one Arleigh Burke class (DDG-51) destroyer.

(c) AUTHORIZATION IF AGREEMENT NOT REACHED.—If as of the date of the enactment of this Act the Secretary of the Navy has not submitted to Congress a certification described in subsection (d), then the amount referred to in subsection (a) shall be available as follows:

(1) $415,000,000 shall be available for advance procurement for Virginia class submarines.

(2) $210,000,000 shall be available for advance procurement for cruiser conversion.

(3) $185,000,000 shall be available for nuclear-powered submarine (SSN) engineered refueling overhaul.

(d) CERTIFICATION.—A certification referred to in subsections (b) and (c) is a certification by the Secretary of the Navy that the prime contractor for the Virginia class submarine program has entered into a binding agreement with the United States to expend from its own funds an amount not less than $385,000,000 for economic order quantity procurement of nuclear and nonnuclear components for Virginia class submarines beginning in fiscal year 2003.

(e) MULTIYEAR PROCUREMENT AUTHORITY.—(1) If the terms of an agreement described in subsection (d) between the United States and the prime contractor for the Virginia class submarine program include a requirement for the Secretary of the Navy to seek to acquire Virginia class submarines through a multiyear procurement contract, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for procurement of Virginia class submarines, beginning with the fiscal year 2003 program year.

(2)(A) In the case of a contract authorized by paragraph (1), a certification under subsection (i)(1)(A) of section 2306b of title 10, United States Code, with respect to that contract may only be submitted if the certification includes an additional certification that each of the conditions specified in subsection (a) of that section has been satisfied with respect to that contract.

(B) Upon transmission to Congress of a certification referred to in subparagraph (A) with respect to a contract authorized by paragraph (1), the contract may then be entered into only after a period of 30 days has elapsed after the date of the transmission of such certification.

Subtitle C—Air Force Programs

SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR C–130J AIRCRAFT PROGRAM.

(a) MULTIYEAR AUTHORITY.—Beginning with the fiscal year 2003 program year, the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for procurement of C-130J aircraft.

(b) LIMITATION.—The Secretary of Defense may not enter into a contract authorized by subsection (a) until—

(1) the Secretary submits to the congressional defense committees a certification described in subsection (c); and

(2) a period of 30 days has expired after such certification is submitted.

(c) REQUIRED CERTIFICATION AS TO PROGRESS TOWARD SUCCESSFUL OPERATIONAL TEST AND EVALUATION.—A certification under subsection (b)(1) is a certification by the Secretary of Defense that the C-130J program is making satisfactory progress towards a successful operational test and evaluation.

(d) REQUIRED CERTIFICATION WITH RESPECT TO MULTIYEAR CONTRACTING CONDITIONS.—(1) In the case of a contract authorized by subsection (a) of this section, a certification under subsection (i)(1)(A) of section 2306b of title 10, United States Code, with respect to that contract may only be submitted if the certification includes an additional certification that each of the conditions specified in subsection (a) of that section has been satisfied with respect to that contract.

(2) Upon transmission to Congress of a certification referred to in paragraph (1) with respect to a contract authorized by subsection (a), the contract may then be entered into only after a period of 30 days has elapsed after the date of the transmission of such certification.

Subtitle D—Other Programs

SEC. 141. REVISIONS TO MULTIYEAR CONTRACTING AUTHORITY.

(a) USE OF PROCUREMENT AND ADVANCE PROCUREMENT FUNDS.—Section 2306b(i) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4)(A) Unless otherwise authorized by law, the Secretary of Defense may obligate funds for procurement of an end item under a multiyear contract for the purchase of property only for procurement of a complete and usable end item.

''(B) Unless otherwise authorized by law, the Secretary of Defense may obligate funds appropriated for any fiscal year for advance procurement under a multiyear contract for the purchase of property only for the procurement of those long-lead items necessary in order to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year.''.

(b) EFFECTIVE DATE.—Paragraph (4) of section 2306b(i) of title 10, United States Code, as added by subsection (a), shall not apply with respect to any multiyear contract authorized by law before the date of the enactment of this Act.

SEC. 142. TRANSFER OF TECHNOLOGY ITEMS AND EQUIPMENT IN SUPPORT OF HOMELAND SECURITY.

(a) IN GENERAL.—Subchapter III of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

''§2520. Transfer of technology items and equipment in support of homeland security

''The Secretary of Defense shall enter into an agreement with an independent, nonprofit, technology-oriented entity that has demonstrated the ability to facilitate the transfer of defense technologies, developed by both the private and public sectors, to aid Federal, State, and local first responders. Under the agreement the entity shall develop and deploy technology items and equipment, through coordination between Government agencies and private sector, commercial developers and suppliers of technology, that will enhance public safety and shall—

''(1) work in coordination with the InterAgency Board for Equipment Standardization and Interoperability;

''(2) develop technology items and equipment that meet the standardization requirements established by the Board;

''(3) evaluate technology items and equipment that have been identified using the standards developed by the Board and other state-of-the-art technology items and equipment that may benefit first responders;

''(4) identify and coordinate among the public and private sectors research efforts applicable to national security and homeland security;

''(5) facilitate the timely transfer of technology items and equipment between public and private sources;

''(6) eliminate redundant research efforts with respect to technologies to be deployed to first responders;

''(7) expedite the advancement of high priority projects from research through implementation of initial manufacturing; and

''(8) establish an outreach program, in coordination with the Board, with first responders to facilitate awareness of available technology items and equipment to support crisis response.''.

(b) DEADLINE FOR AGREEMENT.—The Secretary of Defense shall enter into the agreement required by section 2520 of title 10, United States Code (as added by subsection (a)) not later than January 15, 2003.

(c) STRATEGIC PLAN.—The entity described in section 2520 of such title shall develop a strategic plan to carry out the goals described in such section, which shall include identification of—

(1) the initial technology items and equipment considered for development; and

(2) the program schedule timelines for such technology items and equipment.

(d) REPORT REQUIRED.—Not later than March 15, 2003, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on—

(1) the actions taken to carry out such section 2520;

(2) the relationship of the entity described in such section to the InterAgency Board for Equipment Standardization and Interoperability; and

(3) the strategic plan of such entity to meet the goals described in such section.

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 148 of title 10, United States Code, is amended by adding at the end the following new item:

''2520. Transfer of technology items and equipment in support of homeland security.''.

SEC. 143. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) PROGRAM MANAGEMENT.—The Secretary of Defense shall ensure that the program for destruction of the United States stockpile of lethal chemical agents and munitions is managed as a major defense acquisition program (as defined in section 2430 of title 10, United States Code) in accordance with the essential elements of such programs as may be determined by the Secretary.

(b) REQUIREMENT FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER) ANNUAL CERTIFICATION.—Beginning with respect to the budget request for fiscal year 2004, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees on an annual basis a certification that the budget request for the chemical agents and munitions destruction program has been submitted in accordance with the requirements of applicable Federal laws.

SEC. 144. REPORT ON UNMANNED AERIAL VEHICLE SYSTEMS.

(a) REPORT.—Not later than January 1, 2003, the Secretary of Defense shall submit to Congress a report on unmanned aerial vehicle systems of the Department of Defense.

(b) MATTERS TO BE INCLUDED CONCERNING UNMANNED AERIAL VEHICLE SYSTEMS.—The Secretary shall include in the report under subsection (a) the following, shown for each system referred to in that subsection:

(1) A description of the infrastructure that the Department of Defense has (or is planning) for the system.

(2) A description of the operational requirements document (ORD) for the system.

(3) A description of the physical infrastructure of the Department for training and basing.

(4) A description of the manner in which the Department is interfacing with the industrial base.

(5) A description of the acquisition plan for the system.

(c) SUGGESTIONS FOR CHANGES IN LAW.—The Secretary shall also include in the report under subsection (a) such suggestions as the Secretary considers appropriate for changes in law that would facilitate the way the Department acquires unmanned aerial vehicle systems.

SEC. 145. REPORT ON IMPACT OF ARMY AVIATION MODERNIZATION PLAN ON THE ARMY NATIONAL GUARD.

(a) REPORT BY CHIEF OF THE NATIONAL GUARD BUREAU.—Not later than February 1, 2003, the Chief of the National Guard Bureau shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the requirements for Army National Guard aviation. The report shall include the following:

(1) An analysis of the impact of the Army Aviation Modernization Plan on the ability of the Army National Guard to conduct its aviation missions.

(2) The plan under that aviation modernization plan for the transfer of aircraft from the active component of the Army to the Army reserve components, including a timeline for those transfers.

(3) The progress, as of January 1, 2003, in carrying out the transfers under the plan referred to in paragraph (2).

(4) An evaluation of the suitability of existing Commercial Off The Shelf (COTS) light-twin engine helicopters for performance of Army National Guard aviation missions.

(b) VIEWS OF THE CHIEF OF STAFF OF THE ARMY.—If, before the report under subsection (a) is submitted, the Chief of the National Guard Bureau receives from the Chief of Staff of the Army the views of the Chief of Staff on the matters to be covered in the report, the Chief of the Bureau shall include those views with the report as submitted under subsection (a).

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $6,933,319,000.

(2) For the Navy, $13,274,540,000.

(3) For the Air Force, $18,803,184,000.

(4) For Defense-wide activities, $17,413,291,000, of which $222,054,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2003.—Of the amounts authorized to be appropriated by section 201, $10,023,658,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term ''basic research, applied research, and advanced technology development'' means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. RAH–66 COMANCHE AIRCRAFT PROGRAM.

(a) LIMITATION.—None of the funds authorized to be appropriated for fiscal year 2003 for engineering and manufacturing development for the RAH–66 Comanche aircraft program may be obligated until the Secretary of the Army submits to the congressional defense committees a report, prepared in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics, containing an accurate estimate of funds required to complete engineering and manufacturing development for that aircraft and the new time line and plan for bringing that aircraft to initial operational capability, as called for in the joint explanatory statement of the committee of conference on the bill S. 1438 of the One Hundred Seventh Congress (at page 535 of House Report 107–333, submitted December 12, 2001).

(b) LIMITATION ON TOTAL COST OF ENGINEERING AND MANUFACTURING DEVELOPMENT.—The total amount obligated or expended for engineering and manufacturing development under the RAH–66 Comanche aircraft program may not exceed $6,000,000,000.

(c) ADJUSTMENT OF LIMITATION AMOUNTS.—(1) Subject to paragraph (2), the Secretary of the Army shall adjust the amount of the limitation set forth in subsection (b) by the following amounts:

(A) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2002.

(B) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2002.

(2) Before making any adjustment under paragraph (1) in an amount greater than $20,000,000, the Secretary of the Army shall submit to the congressional defense committees notice in writing of the proposed increase.

(d) ANNUAL DOD INSPECTOR GENERAL REVIEW.—(1) Not later than March 1 of each year, the Department of Defense Inspector General shall review the RAH–66 Comanche aircraft program and submit to Congress a report on the results of the review.

(2) The report submitted on the program each year shall include the following:

(A) The extent to which engineering and manufacturing development under the program is meeting the goals established for engineering and manufacturing development under the program, including the performance, cost, and schedule goals.

(B) The status of modifications expected to have a significant effect on cost, schedule, or performance of RAH–66 aircraft.

(C) The plan for engineering and manufacturing development (leading to production) under the program for the fiscal year that begins in the following year.

(D) A conclusion regarding whether the plan referred to in subparagraph (C) is consistent with the limitation in subsection (a).

(E) A conclusion regarding whether engineering and manufacturing development (leading to production) under the program is likely to be completed at a total cost not in excess of the amount specified in subsection (a).

(3) No report is required under this subsection after the RAH–66 aircraft has completed engineering and manufacturing development.

(e) LIMITATION ON OBLIGATION OF FUNDS.—Of the total amount authorized to be appropriated for the RAH–66 Comanche aircraft program for research, development, test, and evaluation for a fiscal year, not more than 90 percent of that amount may be obligated until the Department of Defense Inspector General submits to Congress the report required to be submitted in that fiscal year under subsection (d).

SEC. 212. EXTENSION OF REQUIREMENT RELATING TO MANAGEMENT RESPONSIBILITY FOR NAVAL MINE COUNTERMEASURES PROGRAMS.

Section 216(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317), as most recently amended by section 211 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1946), is amended by striking ''through 2003'' and inserting ''through 2008''.

SEC. 213. EXTENSION OF AUTHORITY TO CARRY OUT PILOT PROGRAM FOR REVITALIZING THE LABORATORIES AND TEST AND EVALUATION CENTERS OF THE DEPARTMENT OF DEFENSE.

Section 246 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1955; 10 U.S.C. 2358 note) is amended—

(1) in subsection (a)(1), by inserting before the period at the end the following: '', and to demonstrate improved efficiency in the performance of the research, development, test, and evaluation functions of the Department of Defense'';

(2) in subsection (a)(4), by striking ''for a period'' and all that follows through the period at the end and inserting ''until March 1, 2008.'';

(3) in subsection (b)(2), by striking ''Promptly after'' and all that follows through ''The report shall contain'' and inserting ''Not later than December 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the activities of the pilot program during the preceding fiscal year. Each such report shall contain, for each laboratory or center in the pilot program,''; and

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

''(3) Not later than March 1, 2007, the Secretary of Defense shall submit to the committees referred to in paragraph (2) the Secretary's recommendation as to whether, and to what extent, the authority to carry out the pilot program should be extended.''.

SEC. 214. REVISED REQUIREMENTS FOR PLAN FOR MANUFACTURING TECHNOLOGY PROGRAM.

(a) STREAMLINED CONTENTS OF PLAN.—Subsection (e) of section 2521 of title 10, United States Code, is amended by striking ''prepare a five-year plan'' in paragraph (1) and all that follows through the end of subparagraph (B) of paragraph (2) and inserting the following: ''prepare and maintain a five-year plan for the program.

''(2) The plan shall establish the following:

''(A) The overall manufacturing technology objectives, milestones, priorities, and investment strategy for the program.

''(B) The specific objectives of, and funding for the program by, each military department and each Defense Agency participating in the program.''.

(b) BIENNIAL REPORT.—Such subsection is further amended in paragraph (3)—

(1) by striking ''annually'' and inserting ''biennially''; and

(2) by striking ''for a fiscal year'' and inserting ''for each even-numbered fiscal year''.

SEC. 215. TECHNOLOGY TRANSITION INITIATIVE.

(a) ESTABLISHMENT AND CONDUCT.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2359 the following new section:

''§ 2359a. Technology Transition Initiative

''(a) INITIATIVE REQUIRED.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall carry out an initiative, to be known as the Technology Transition Initiative (hereinafter in this section referred to as the 'Initiative'), to facilitate the rapid transition of new technologies from science and technology programs of the Department of Defense into acquisition programs of the Department for the production of such technologies.

''(b) OBJECTIVES.—The Initiative shall have the following objectives:

''(1) To accelerate the introduction of new technologies into appropriate acquisition programs.

''(2) To successfully demonstrate new technologies in relevant environments.

''(3) To ensure that new technologies are sufficiently mature for production.

''(c) MANAGEMENT OF INITIATIVE.—(1) The Initiative shall be managed by a senior official in the Office of the Secretary of Defense designated by the Secretary (hereinafter in this section referred to as the 'Manager'). In managing the Initiative, the Manager shall report directly to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

''(2) The Secretary shall establish a board of directors (hereinafter in this section referred to as the 'Board'), composed of the acquisition executive of each military department, the members of the Joint Requirements Oversight Council, and the commander of the Joint Forces Command. The Board shall assist the Manager in managing the Initiative.

''(3) The Secretary shall establish, under the auspices of the Under Secretary of Defense for Acquisition, Technology, and Logistics, a panel of highly qualified scientists and engineers. The panel shall advise the Under Secretary on matters relating to the Initiative.

''(d) DUTIES OF MANAGER.—The Manager shall have following duties:

''(1) To identify, in consultation with the Board, promising technologies that have been demonstrated in science and technology programs of the Department.

''(2) To identify potential sponsors in the Department to undertake the transition of such technologies into production.

''(3) To work with the science and technology community and the acquisition community to develop memoranda of agreement, joint funding agreements, and other cooperative arrangements to provide for the transition of such technologies into production.

''(4) Provide funding support for projects selected under subsection (e).

''(e) JOINTLY FUNDED PROJECTS.—(1) The acquisition executive of each military department shall identify technology projects of that military department to recommend for funding support under the Initiative and shall submit to the Manager a list of such recommended projects, ranked in order of priority. Such executive shall identify such projects, and establish priorities among such projects, using a competitive process, on the basis of the greatest potential benefits in areas of interest identified by the Secretary of that military department.

''(2) The Manager, in consultation with the Board, shall select projects for funding support from among the projects on the lists submitted under paragraph (1). From the funds made available to the Manager for the Initiative, the Manager shall provide funds for each selected project in an amount determined by mutual agreement between the Manager and the acquisition executive of the military department concerned, but not less than 50 percent of the total cost of the project.

''(3) The acquisition executive of the military department concerned shall manage each project selected under paragraph (2) that is undertaken by the military department. Memoranda of agreement, joint funding agreements, and other cooperative arrangements between the science and technology community and the acquisition community shall be used in carrying out the project if the acquisition executive determines that it is appropriate to do so to achieve the objectives of the project.

''(f) REQUIREMENT FOR PROGRAM ELEMENT.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Initiative shall be set forth in a separate program element within amounts requested for research, development, test, and evaluation for Defense-wide activities.

''(g) DEFINITION OF ACQUISITION EXECUTIVE.—In this section, the term 'acquisition executive', with respect to a military department, means the official designated as the senior procurement executive for that military department under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2359 the following new item:

''2359a. Technology Transition Initiative.''.

SEC. 216. DEFENSE ACQUISITION CHALLENGE PROGRAM.

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by inserting after section 2359a (as added by section 215) the following new section:

''§ 2359b. Defense Acquisition Challenge Program

''(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to provide opportunities for the increased introduction of innovative and cost-saving technology in acquisition programs of the Department of Defense. The program, to be known as the Defense Acquisition Challenge Program (hereinafter in this section referred to as the 'Challenge Program'), shall provide any person or activity within or outside the Department of Defense with the opportunity to propose alternatives, to be known as challenge proposals, at the component, subsystem, or system level of an existing Department of Defense acquisition program that would result in improvements in performance, affordability, manufacturability, or operational capability of that acquisition program.

''(b) PANEL.—(1) In carrying out the Challenge Program, the Secretary shall establish a panel of highly qualified scientists and engineers (hereinafter in this section referred to as the 'Panel') under the auspices of the Under Secretary of Defense for Acquisition, Technology, and Logistics. The duty of the Panel shall be to carry out evaluations of challenge proposals under subsection (c).

''(2) A member of the Panel may not participate in any evaluation of a challenge proposal under subsection (c) if at any time within the previous five years that member has, in any capacity, participated in or been affiliated with the acquisition program for which the challenge proposal is submitted.

''(c) EVALUATION BY PANEL.—(1) Under procedures prescribed by the Secretary, a person or activity within or outside the Department of Defense may submit challenge proposals to the Panel.

''(2) The Panel shall carry out an evaluation of each challenge proposal submitted under paragraph (1) to determine each of the following criteria:

''(A) Whether the challenge proposal has merit.

''(B) Whether the challenge proposal is likely to result in improvements in performance, affordability, manufacturability, or operational capability at the component, subsystem, or system level of the applicable acquisition program.

''(C) Whether the challenge proposal could be implemented rapidly in the applicable acquisition program.

''(3) If the Panel determines that a challenge proposal satisfies each of the criteria specified in paragraph (2), the person or activity submitting that challenge proposal shall be provided an opportunity to submit such challenge proposal for a full review and evaluation under subsection (d).

''(d) FULL REVIEW AND EVALUATION.—(1) Under procedures prescribed by the Secretary, for each challenge proposal submitted for a full review and evaluation as provided in subsection (c)(3), the office carrying out the applicable acquisition program, and the prime system contractor carrying out such program, shall jointly conduct a full review and evaluation of the challenge proposal.

''(2) The full review and evaluation shall, independent of the determination of the Panel under subsection (c)(2), determine each of the matters specified in subparagraphs (A), (B), and (C) of such subsection.

''(e) ACTION UPON FAVORABLE FULL REVIEW AND EVALUATION.—(1) Under procedures prescribed by the Secretary, each challenge proposal determined under a full review and evaluation to satisfy each of the criteria specified in subsection (c)(2) shall be considered by the prime system contractor for incorporation into the applicable acquisition program as a new technology insertion at the component, subsystem, or system level.

''(2) The Secretary shall encourage the adoption of each challenge proposal referred to in paragraph (1) by providing suitable incentives to the office carrying out the applicable acquisition program and the prime system contractor carrying out such program.

''(f) ACCESS TO TECHNICAL RESOURCES.—The Secretary shall ensure that the Panel (in carrying out evaluations of challenge proposals under subsection (c)) and each office and prime system contractor (in conducting a full review and evaluation under subsection (d)) have the authority to call upon the technical resources of the laboratories, research, development, and engineering centers, test and evaluation activities, and other elements of the Department.

''(g) ELIMINATION OF CONFLICTS OF INTEREST.—In carrying out each evaluation under subsection (c) and full review under subsection (d), the Secretary shall ensure the elimination of conflicts of interest.

''(h) REPORT.—The Secretary shall submit to Congress, with the submission of the budget request for the Department of Defense for each fiscal year during which the Challenge Program is carried out, a report on the Challenge Program for that fiscal year. The report shall include the number and scope of challenge proposals submitted, evaluated, subjected to full review, and adopted.

''(i) SUNSET.—The authority to carry out this section shall terminate on September 30, 2007.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2359a (as added by section 215) the following new item:

''2359b. Defense Acquisition Challenge Program.''.

(b) INITIAL FUNDING.—(1) Of the funds authorized to be appropriated by section 201(4) for Defense-wide research, development, test, and evaluation for fiscal year 2003, $25,000,000 shall be available in program element 0603826D8Z for the Defense Acquisition Challenge Program required by section 2359b of title 10, United States Code, as added by subsection (a).

(2) The funds provided under paragraph (1) may be used only for review and evaluation of challenge proposals, and not for implementation of challenge proposals.

Subtitle C—Ballistic Missile Defense

SEC. 231. LIMITATION ON OBLIGATION OF FUNDS FOR PROCUREMENT OF PATRIOT (PAC–3) MISSILES PENDING SUBMISSION OF REQUIRED CERTIFICATION.

None of the funds appropriated for fiscal year 2003 for procurement of missiles for the Army may be obligated for the Patriot Advanced Capability (PAC–3) missile program until the Secretary of Defense has submitted to the congressional defense committees the following:

(1) The criteria for the transfer of responsibility for a missile defense program from the Director of the Missile Defense Agency to the Secretary of a military department, as required by section 224(b)(2) of title 10, United States Code.

(2) The notice and certification with respect to the transfer of responsibility for the Patriot Advanced Capability (PAC–3) missile program from the Director to the Secretary of the Army required by section 224(c) of such title.

SEC. 232. RESPONSIBILITY OF MISSILE DEFENSE AGENCY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION RELATED TO SYSTEM IMPROVEMENTS OF PROGRAMS TRANSFERRED TO MILITARY DEPARTMENTS.

Section 224(e) of title 10, United States Code, is amended—

(1) by striking ''before a'' and inserting ''for each'';

(2) by striking ''is''; and

(3) by striking ''roles and responsibilities'' and all that follows through the period at the end and inserting ''responsibility for research, development, test, and evaluation related to system improvements for that program remains with the Director.''.

SEC. 233. AMENDMENTS TO REFLECT CHANGE IN NAME OF BALLISTIC MISSILE DEFENSE ORGANIZATION TO MISSILE DEFENSE AGENCY.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Sections 203, 223, and 224 are each amended by striking ''Ballistic Missile Defense Organization'' each place it appears and inserting ''Missile Defense Agency''.

(2)(A) The heading of section 203 is amended to read as follows:

''§ 203. Director of Missile Defense Agency''.

(B) The item relating to such section in the table of sections at the beginning of subchapter II of chapter 8 is amended to read as follows:

''203. Director of Missile Defense Agency.''.

(b) PUBLIC LAW 107–107.—(1) Section 232 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note) is amended by striking ''Ballistic Missile Defense Organization'' each place it appears and inserting ''Missile Defense Agency''.

(2) The heading for such section is amended to read as follows:

"SEC. 232. PROGRAM ELEMENTS FOR MISSILE DEFENSE AGENCY.".

(c) PUBLIC LAW 106–398.—(1) Section 3132 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 10 U.S.C. 2431 note) is amended by striking ''Ballistic Missile Defense Organization'' each place it appears and inserting ''Missile Defense Agency''.

(2) Such section is further amended in subsection (c) by striking ''BMDO'' and inserting ''MDA''.

(3) The section heading for such section is amended to read as follows:

"SEC. 3132. ENHANCED COOPERATION BETWEEN NATIONAL NUCLEAR SECURITY ADMINISTRATION AND MISSILE DEFENSE AGENCY.".

(d) OTHER LAWS.—The following provisions are each amended by striking ''Ballistic Missile Defense Organization'' each place it appears and inserting ''Missile Defense Agency'':

(1) Section 233 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 223 note).

(2) Section 234 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2431 note).

(3) Sections 235 (10 U.S.C. 2431 note) and 243 (10 U.S.C. 2431 note) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,159,733,000.

(2) For the Navy, $29,428,876,000.

(3) For the Marine Corps, $3,588,512,000.

(4) For the Air Force, $27,299,404,000.

(5) For Defense-wide activities, $14,370,037,000.

(6) For the Army Reserve, $1,918,110,000.

(7) For the Naval Reserve, $1,233,759,000.

(8) For the Marine Corps Reserve, $185,532,000.

(9) For the Air Force Reserve, $2,194,719,000.

(10) For the Army National Guard, $4,300,767,000.

(11) For the Air National Guard, $4,077,845,000.

(12) For the Defense Inspector General, $155,165,000.

(13) For the United States Court of Appeals for the Armed Forces, $9,614,000.

(14) For Environmental Restoration, Army, $395,900,000.

(15) For Environmental Restoration, Navy, $256,948,000.

(16) For Environmental Restoration, Air Force, $389,773,000.

(17) For Environmental Restoration, Defense-wide, $23,498,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, $212,102,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $58,400,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $848,907,000.

(21) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $25,000,000.

(22) For Defense Health Program, $14,242,541,000.

(23) For Cooperative Threat Reduction programs, $416,700,000.

(24) For Support for International Sporting Competitions, Defense, $19,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,504,956,000.

(2) For the National Defense Sealift Fund, $934,129,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2003 from the Armed Forces Retirement Home Trust Fund the sum of $69,921,000 for the operation of the Armed Forces Retirement Home.

Subtitle B—Environmental Provisions

SEC. 311. INCIDENTAL TAKING OF MIGRATORY BIRDS DURING MILITARY READINESS ACTIVITY.

Section 3 of the Migratory Bird Treaty Act (16 U.S.C. 704) is amended by adding at the end the following new subsection:

''(c)(1) Section 2 shall not apply to the incidental taking of a migratory bird by a member of the Armed Forces during a military readiness activity authorized by the Secretary of Defense or the Secretary of the military department concerned.

''(2)(A) In this subsection, the term 'military readiness activity' includes—

''(i) all training and operations of the Armed Forces that relate to combat; and

''(ii) the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use.

''(B) The term does not include—

''(i) the routine operation of installation operating support functions, such as administrative offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, morale, welfare, and recreation activities, shops, and mess halls;

''(ii) the operation of industrial activities; or

''(iii) the construction or demolition of facilities used for a purpose described in clause (i) or (ii).''.

SEC. 312. MILITARY READINESS AND THE CONSERVATION OF PROTECTED SPECIES.

(a) LIMITATION ON DESIGNATION OF CRITICAL HABITAT.—Section 4(a)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting ''(A)'' after ''(3)''; and

(3) by adding at the end the following:

''(B)(i) The Secretary may not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines that such plan addresses special management considerations or protection (as those terms are used in section 3(5)(A)(i)).

''(ii) Nothing in this subparagraph affects the requirement to consult under section 7(a)(2) with respect to an agency action (as that term is defined in that section).

''(iii) Nothing in this subparagraph affects the obligation of the Department of Defense to comply with section 9 of the Endangered Species Act of 1973, including the prohibition preventing extinction and taking of endangered species and threatened species.''.

(b) CONSIDERATION OF EFFECTS OF DESIGNATION OF CRITICAL HABITAT.—Section 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(2)) is amended by inserting ''the impact on national security,'' after ''the economic impact,''.

SEC. 313. SINGLE POINT OF CONTACT FOR POLICY AND BUDGETING ISSUES REGARDING UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS.

Section 2701 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(k) UXO PROGRAM MANAGER.—(1) The Secretary of Defense shall establish a program manager who shall serve as the single point of contact in the Department of Defense for policy and budgeting issues involving the characterization, remediation, and management of explosive and related risks with respect to unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (as such terms are defined in section 2710 of this title) that pose a threat to human health or safety.

''(2) The Secretary of Defense may delegate this authority to the Secretary of a military department, who may delegate the authority to the Under Secretary of that military department. The authority may not be further delegated.

''(3) The program manager may establish an independent advisory and review panel that may include representatives of the National Academy of Sciences, nongovernmental organizations with expertise regarding unexploded ordnance, discarded military munitions, or munitions constituents, the Environmental Protection Agency, States (as defined in section 2710 of this title), and tribal governments. If established, the panel would report annually to Congress on progress made by the Department of Defense to address unexploded ordnance, discarded military munitions, or munitions constituents at defense sites and make such recommendations as the panel considered appropriate.''.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 321. AUTHORITY FOR EACH MILITARY DEPARTMENT TO PROVIDE BASE OPERATING SUPPORT TO FISHER HOUSES.

Section 2493(f) of title 10, United States Code, is amended to read as follows:

''(f) BASE OPERATING SUPPORT.—The Secretary of a military department may provide base operating support for Fisher Houses associated with health care facilities of that military department.''.

SEC. 322. USE OF COMMISSARY STORES AND MWR RETAIL FACILITIES BY MEMBERS OF NATIONAL GUARD SERVING IN NATIONAL EMERGENCY.

(a) ADDITIONAL BASIS FOR AUTHORIZED USE.—Section 1063a of title 10, United States Code, is amended—

(1) in subsection (a), by inserting ''or national emergency'' after ''federally declared disaster''; and

(2) in subsection (c), by adding at the end the following new paragraph:

''(3) NATIONAL EMERGENCY.—The term 'national emergency' means a national emergency declared by the President or Congress.''.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency".

(2) The table of sections at the beginning of chapter 54 of such title is amended by striking the item relating to section 1063a and inserting the following new item:

''1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency.''.

SEC. 323. UNIFORM FUNDING AND MANAGEMENT OF MORALE, WELFARE, AND RECREATION PROGRAMS.

(a) IN GENERAL.—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2494. Uniform funding and management of morale, welfare, and recreation programs

''(a) AUTHORITY FOR UNIFORM FUNDING AND MANAGEMENT.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

''(b) CONDITIONS ON AVAILABILITY.—Funds appropriated to the Department of Defense may be made available to support a morale, welfare, or recreation program only if the program is authorized to receive appropriated fund support and only in the amounts the program is authorized to receive.

''(c) CONVERSION OF EMPLOYMENT POSITIONS.—(1) The Secretary of Defense may identify positions of employees in morale, welfare, and recreation programs within the Department of Defense who are paid with appropriated funds whose status may be converted from the status of an employee paid with appropriated funds to the status of an employee of a nonappropriated fund instrumentality.

''(2) The status of an employee in a position identified by the Secretary under paragraph (1) may, with the consent of the employee, be converted to the status of an employee of a nonappropriated fund instrumentality. An employee who does not consent to the conversion may not be removed from the position because of the failure to provide such consent.

''(3) The conversion of an employee from the status of an employee paid by appropriated funds to the status of an employee of a nonappropriated fund instrumentality shall be without a break in service for the concerned employee. The conversion shall not entitle an employee to severance pay, back pay or separation pay under subchapter IX of chapter 55 of title 5, or be considered an involuntary separation or other adverse personnel action entitling an employee to any right or benefit under such title or any other provision of law or regulation.

''(4) In this subsection, the term 'an employee of a nonappropriated fund instrumentality' means an employee described in section 2105(c) of title 5.''.

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

''2494. Uniform funding and management of morale, welfare, and recreation programs.''.

Subtitle D—Workplace and Depot Issues

SEC. 331. NOTIFICATION REQUIREMENTS IN CONNECTION WITH REQUIRED STUDIES FOR CONVERSION OF COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE.

Subsection (c) of section 2461 of title 10, United States Code, is amended to read as follows:

''(c) SUBMISSION OF ANALYSIS RESULTS.—(1) Upon the completion of an analysis of a commercial or industrial type function described in subsection (a) for possible change to performance by the private sector, the Secretary of Defense shall submit to Congress a report containing the results of the analysis, including the results of the examinations required by subsection (b)(3).

''(2) The report shall also contain the following:

''(A) The date when the analysis of the function was commenced.

''(B) The Secretary's certification that the Government calculation of the cost of performance of the function by Department of Defense civilian employees is based on an estimate of the most cost effective manner for performance of the function by Department of Defense civilian employees.

''(C) The number of Department of Defense civilian employees who were performing the function when the analysis was commenced and the number of such employees whose employment was or will be terminated or otherwise affected by changing to performance of the function by the private sector or by implementation of the most efficient organization of the function.

''(D) The Secretary's certification that the factors considered in the examinations performed under subsection (b)(3), and in the making of the decision regarding changing to performance of the function by the private sector or retaining performance in the most efficient organization of the function, did not include any predetermined personnel constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees.

''(E) A statement of the potential economic effect of implementing the decision regarding changing to performance of the function by the private sector or retaining performance in the most efficient organization of the function on each affected local community, as determined in the examination under subsection (b)(3)(B)(ii).

''(F) A schedule for completing the change to performance of the function by the private sector or implementing the most efficient organization of the function

''(G) In the case of a commercial or industrial type function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, a description of the effect that the manner of performance of the function, and administration of the resulting contract if any, will have on the overhead costs of the center or ammunition plant, as the case may be.

''(H) The Secretary's certification that the entire analysis is available for examination.

''(3)(A) If a decision is made to change the commercial or industrial type function that was the subject of the analysis to performance by the private sector, the change of the function to contractor performance may not begin until after the submission of the report required by paragraph (1).

''(B) Notwithstanding subparagraph (A), in the case of a commercial or industrial type function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, the change of the function to contractor performance may not begin until at least 60 days after the submission of the report.''.

SEC. 332. WAIVER AUTHORITY REGARDING PROHIBITION ON CONTRACTS FOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS.

Section 2465 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(c) The Secretary of Defense or the Secretary of a military department may waive the prohibition under subsection (a) regarding contracting for the performance of security-guard functions at a military installation or facility under the jurisdiction of the Secretary if such functions—

''(1) are or will be performed by members of the armed forces in the absence of a waiver; or

''(2) were not performed at the installation or facility before September 11, 2001.''.

SEC. 333. EXCLUSION OF CERTAIN EXPENDITURES FROM PERCENTAGE LIMITATION ON CONTRACTING FOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOADS.

Section 2474(f)(2) of title 10, United States Code, is amended by striking ''for fiscal years 2002 through 2005''.

SEC. 334. REPEAL OF OBSOLETE PROVISION REGARDING DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOADS THAT WERE PERFORMED AT CLOSED OR REALIGNED MILITARY INSTALLATIONS.

(a) REPEAL.—Section 2469a of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2469a.

SEC. 335. CLARIFICATION OF REQUIRED CORE LOGISTICS CAPABILITIES.

Section 2464(a)(3) of title 10, United States Code, is amended by striking ''those capabilities that are necessary to maintain and repair the weapon systems'' and inserting ''those logistics capabilities (including acquisition logistics, supply management, system engineering, maintenance, and modification management) that are necessary to sustain the weapon systems''.

Subtitle E—Defense Dependents Education

SEC. 341. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2003.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2003, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2003 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term ''educational agencies assistance'' means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term ''local educational agency'' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 342. AVAILABILITY OF QUARTERS ALLOWANCE FOR UNACCOMPANIED DEFENSE DEPARTMENT TEACHER REQUIRED TO RESIDE ON OVERSEAS MILITARY INSTALLATION.

(a) AUTHORITY TO PROVIDE ALLOWANCE.—Subsection (b) of section 7 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 905) is amended by adding at the end the following new sentence: ''If the teacher is unaccompanied by dependents and is required to reside on a United States military installation in an overseas area, the teacher may receive a quarters allowance to reside in excess family housing at the installation notwithstanding the availability single room housing at the installation.''.

(b) TECHNICAL CORRECTION TO REFLECT CODIFICATION.—Such section is further amended by striking ''the Act of June 26, 1930 (5 U.S.C. 118a)'' both places it appears and inserting ''section 5912 of title 5, United States Code''.

SEC. 343. PROVISION OF SUMMER SCHOOL PROGRAMS FOR STUDENTS WHO ATTEND DEFENSE DEPENDENTS' EDUCATION SYSTEM.

Section 1402(d) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(d)) is

amended by striking paragraph (2) and inserting the following new paragraph (2):

''(2) Individuals eligible to receive a free public education under subsection (a) may enroll without charge in a summer school program offered under this subsection. Students who are required under section 1404 to pay tuition to enroll in a school of the defense dependents' education system shall also be charged a fee, at a rate established by the Secretary, to attend a course offered as part of the summer school program.''.

Subtitle F—Information Technology

SEC. 351. NAVY-MARINE CORPS INTRANET CONTRACT.

(a) AUTHORIZED DURATION OF CONTRACT.—Section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398 (114 Stat. 1654A–215) and amended by section 362 of Public Law 107–107 (115 Stat. 1065), is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

''(i) DURATION OF NAVY-MARINE CORPS INTRANET CONTRACT.—Notwithstanding section 2306c of title 10, United States Code, the Navy-Marine Corps Intranet contract may have a term in excess of five years, but not more than seven years.''.

(b) CLARIFICATION OF PHASED IMPLEMENTATION REQUIREMENTS.—Subsection (b) of such section is amended in paragraphs (2) and (3) by striking ''provided'' each place it appears and inserting ''ordered''.

SEC. 352. ANNUAL SUBMISSION OF INFORMATION ON NATIONAL SECURITY AND INFORMATION TECHNOLOGY CAPITAL ASSETS.

(a) REQUIREMENT TO SUBMIT INFORMATION.—Not later than the date that the President submits the budget of the United States Government to Congress each year, the Secretary of Defense shall submit to Congress a description of, and relevant budget information on, each information technology and national security capital asset of the Department of Defense that—

(1) has an estimated life cycle cost (as computed in fiscal year 2003 constant dollars), in excess of $120,000,000; and

(2) has a cost for the fiscal year in which the description is submitted (as computed in fiscal year 2003 constant dollars) in excess of $30,000,000.

(b) INFORMATION TO BE INCLUDED.—The description submitted under subsection (a) shall include, with respect to each such capital asset and national security system—

(1) the name and identifying acronym;

(2) the date of initiation;

(3) a summary of performance measurements and metrics;

(4) the total amount of funds, by appropriation account, appropriated and obligated for prior fiscal years, with a specific breakout of such information for the two preceding fiscal years;

(5) the funds, by appropriation account, requested for that fiscal year;

(6) each prime contractor and the work to be performed;

(7) a description of program management and management oversight;

(8) the original baseline cost and most current baseline information; and

(9) a description of compliance with the provisions enacted in the Government Performance Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and the Clinger–Cohen Act of 1996 (division D of Public Law 104–106; 110 Stat. 642).

(c) ADDITIONAL INFORMATION TO BE INCLUDED FOR CERTAIN SYSTEMS.—(1) For each information technology and national security system of the Department of Defense that has a cost for the fiscal year in excess of $2,000,000, the Secretary shall identify that system by name, function, and total funds requested for the system.

(2) For each information technology and national security system of the Department of Defense that has a cost for the fiscal year in excess of $10,000,000, the Secretary shall identify that system by name, function, and total funds requested (by appropriation account) for that fiscal year, the funds appropriated for the preceding fiscal year, and the funds estimated to be requested for the next fiscal year.

(d) DEFINITIONS.—In this section:

(1) The term ''information technology'' has the meaning given that term in section 5002 of the Clinger–Cohen Act of 1996 (40 U.S.C. 1401(3)).

(2) The term ''capital asset'' has the meaning given that term in Office of Management and Budget Circular A–11.

(3) The term ''national security system'' has the meaning given that term in section 5142 of the Clinger–Cohen Act of 1996 (40 U.S.C. 1452).

SEC. 353. IMPLEMENTATION OF POLICY REGARDING CERTAIN COMMERCIAL OFF-THE-SHELF INFORMATION TECHNOLOGY PRODUCTS.

The Secretary of Defense shall ensure that—

(1) the Department of Defense implements the policy established by the Committee on National Security Systems (formerly the National Security Telecommunications and Information Systems Security Committee) that limits the acquisition by the Federal Government of all commercial off-the-shelf information assurance and information assurance-enabled information technology products to those products that have been evaluated and validated in accordance with appropriate criteria, schemes, or programs; and

(2) implementation of such policy includes uniform enforcement procedures.

SEC. 354. INSTALLATION AND CONNECTION POLICY AND PROCEDURES REGARDING DEFENSE SWITCH NETWORK.

(a) ESTABLISHMENT OF POLICY AND PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish clear and uniform policy and procedures, applicable to the military departments and Defense Agencies, regarding the installation and connection of telecom switches to the Defense Switch Network.

(b) ELEMENTS OF POLICY AND PROCEDURES.—The policy and procedures shall address at a minimum the following:

(1) Clear interoperability and compatibility requirements for certifying, installing, and connecting telecom switches to the Defense Switch Network.

(2) Current, complete, and enforceable testing, validation, and certification procedures needed to ensure the interoperability and compatibility requirements are satisfied.

(c) EXCEPTIONS.—(1) The Secretary of Defense may specify certain circumstances in which—

(A) the requirements for testing, validation, and certification of telecom switches may be waived; or

(B) interim authority for the installation and connection of telecom switches to the Defense Switch Network may be granted.

(2) Only the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, after consultation with the Chairman of the Joint Chiefs of Staff, may approve a waiver or grant of interim authority under paragraph (1).

(d) INVENTORY OF DEFENSE SWITCH NETWORK.—The Secretary of Defense shall prepare and maintain an inventory of all telecom switches that, as of the date on which the Secretary issues the policy and procedures—

(1) are installed or connected to the Defense Switch Network; but

(2) have not been tested, validated, and certified by the Defense Information Systems Agency (Joint Interoperability Test Center).

(e) TELECOM SWITCH DEFINED.—In this section, the term ''telecom switch'' means hardware or software designed to send and receive voice, data, and video signals across a network.

Subtitle G—Other Matters

SEC. 361. DISTRIBUTION OF MONTHLY REPORTS ON ALLOCATION OF FUNDS WITHIN OPERATION AND MAINTENANCE BUDGET SUBACTIVITIES.

(a) DESIGNATION OF RECIPIENTS.—Subsection (a) of section 228 of title 10, United States Code, is amended by striking ''to Congress'' and inserting ''to the congressional defense committees''.

(b) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—Subsection (e) of such section is amended—

(1) by striking ''(e) O&M BUDGET ACTIVITY DEFINED.—For purposes of this section, the'' and inserting the following:

''(e) DEFINITIONS.—In this section:

''(1) The''; and

(2) by adding at the end the following:

''(2) The term 'congressional defense committees' means the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''.

SEC. 362. MINIMUM DEDUCTION FROM PAY OF CERTAIN MEMBERS OF THE ARMED FORCES TO SUPPORT ARMED FORCES RETIREMENT HOME.

Section 1007(i) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking ''an amount (determined under paragraph (3)) not to exceed $1.00.'' and inserting ''an amount equal to $1.00 and such additional amount as may be determined under paragraph (3).''; and

(2) in paragraph (3)—

(A) by striking ''the amount'' in the first sentence and inserting ''the additional amount''; and

(B) by striking ''The amount'' in the second sentence and inserting ''The additional amount''.

SEC. 363. CONDITION ON CONVERSION OF DEFENSE SECURITY SERVICE TO A WORKING CAPITAL FUNDED ENTITY.

The Secretary of Defense may not convert the Defense Security Service to a working capital funded entity of the Department of Defense unless the Secretary submits, in advance, to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a certification that the Defense Security Service has the financial systems in place to fully support operation of the Defense Security Service as a working capital funded entity under section 2208 of title 10, United States Code.

SEC. 364. CONTINUATION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

(a) EXTENSION THROUGH FISCAL YEAR 2004.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–65) is amended by striking ''and 2002'' and inserting ''through 2004''.

(b) REPORTING REQUIREMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking ''2002'' and inserting ''2004''; and

(2) in paragraph (2), by striking the first sentence and inserting the following new sentence: ''Not later than July 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report on the results of the demonstration program since its implementation, including the Secretary's views regarding the benefits of the program for Army manufacturing arsenals and the Department of the Army and the success of the program in achieving the purposes specified in subsection (b).''.

SEC. 365. TRAINING RANGE SUSTAINMENT PLAN, GLOBAL STATUS OF RESOURCES AND TRAINING SYSTEM, AND TRAINING RANGE INVENTORY.

(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a comprehensive plan for using existing authorities available to the Secretary of Defense and the Secretaries of the military departments to address problems created by limitations on the use of military lands, marine areas, and airspace reserved, withdrawn, or designated for training and testing activities by, for, or on behalf of the Armed Forces.

(2) The plan shall include the following:

(A) Goals and milestones for tracking planned actions and measuring progress.

(B) Projected funding requirements for implementing planned actions.

(C) Designation of an office in the Office of the Secretary of Defense and each of the military departments that will have lead responsibility for overseeing implementation of the plan.

(3) The Secretary of Defense shall submit the plan to Congress at the same time as the President submits the budget for fiscal year 2004 and shall submit an annual report to Congress describing the progress made in implementing the plan and any additional encroachment problems.

(b) READINESS REPORTING IMPROVEMENT.—Not later than June 30, 2003, the Secretary of Defense, using existing measures within the authority of the Secretary, shall submit to Congress a report on the plans of the Department of Defense to improve the Global Status of Resources and Training System—

(1) to better reflect the increasing challenges units of the Armed Forces must overcome to achieve training requirements; and

(2) to quantify the extent to which encroachment and other individual factors are making military lands, marine areas, and airspace less available to support unit accomplishment of training plans and readiness goals.

(c) TRAINING RANGE INVENTORY.—The Secretary of Defense shall develop and maintain a training range data bank for each of the Armed Forces—

(1) to identify all available operational training ranges;

(2) to identify all training capacities and capabilities available at each training range;

(3) to identify all current encroachment threats or other potential limitations on training that are, or are likely to, adversely affect training and readiness; and

(4) to provide a point of contact for each training range.

(d) GAO EVALUATION.—(1) With respect to each report submitted under this section, the Comptroller General shall submit to Congress, within 60 days after receiving the report, an evaluation of the report.

(e) ARMED FORCES DEFINED.—In this section, the term ''Armed Forces'' means the Army, Navy, Air Force, and Marine Corps.

SEC. 366. AMENDMENTS TO CERTAIN EDUCATION AND NUTRITION LAWS RELATING TO ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) ELIGIBILITY FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVATIZATION OF MILITARY HOUSING.—Section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) is amended by adding at the end the following:

''(H) ELIGIBILITY FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVATIZATION OF MILITARY HOUSING.—

''(i) ELIGIBILITY.—For any fiscal year beginning with fiscal year 2003, a heavily impacted local educational agency that received a basic support payment under subparagraph (A) for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B) or (C), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

''(ii) AMOUNT OF PAYMENT.—The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E) (as the case may be), shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year.

''(iii) CONVERSION OF MILITARY HOUSING UNITS TO PRIVATE HOUSING DESCRIBED.—For purposes of clause (i), 'conversion of military housing units to private housing' means the conversion of military housing units to private housing units pursuant to subchapter IV of chapter 169 of title 10, United States Code, or pursuant to any other related provision of law.''.

(b) EXCLUSION OF CERTAIN MILITARY BASIC ALLOWANCES FOR HOUSING FOR DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS.—Section 9(b)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended by adding at the end the following: ''For the one-year period beginning on the date of the enactment of this sentence, the amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of an individual who is a member of the uniformed services for housing that is acquired or constructed under the authority of subchapter IV of chapter 169 of title 10, United States Code, or any other related provision of law, shall not be considered to be income for purposes of determining the eligibility of a child of the individual for free or reduced price lunches under this Act.''.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2003, as follows:

(1) The Army, 484,800.

(2) The Navy, 379,457.

(3) The Marine Corps, 175,000.

(4) The Air Force, 360,795.

SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.

(a) REVISED END STRENGTH FLOORS.—Section 691(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking ''480,000'' and inserting ''484,800'';

(2) in paragraph (2), by striking ''376,000'' and inserting ''379,457';

(3) in paragraph (3), by striking ''172,600'' and inserting ''175,000''; and

(4) in paragraph (4), by striking ''358,800'' and inserting ''360,795''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2002, or the date of the enactment of this Act, whichever is later.

SEC. 403. AUTHORITY FOR MILITARY DEPARTMENT SECRETARIES TO INCREASE ACTIVE-DUTY END STRENGTHS BY UP TO 1 PERCENT.

(a) SERVICE SECRETARY AUTHORITY.—Section 115 of title 10, United States Code, is amended by inserting after subsection (e) the following new subsection:

''(f) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary. Any such increase for a fiscal year—

''(1) shall be by a number equal to not more than 1 percent of such authorized end strength; and

''(2) shall be counted as part of the increase for that armed force for that fiscal year authorized under subsection (c)(1).''.

(b) EFFECTIVE DATE.—Subsection (f) of section 115 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2002, or the date of the enactment of this Act, whichever is later.

SEC. 404. GENERAL AND FLAG OFFICER MANAGEMENT.

(a) EXCLUSION OF SENIOR MILITARY ASSISTANT TO THE SECRETARY OF DEFENSE FROM LIMITATION ON ACTIVE DUTY OFFICERS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.—Effective on the date specified in subsection (e), section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(8) An officer while serving in a position designated by the Secretary of Defense as Senior Military Assistant to the Secretary of Defense, if serving in the grade of lieutenant general or vice admiral, is in addition to the number that otherwise would be permitted for that officer's armed force for that grade under paragraph (1) or (2). Only one officer may be designated as Senior Military Assistant to the Secretary of Defense for purposes of this paragraph.''.

(b) INCREASE IN NUMBER OF LIEUTENANT GENERALS AUTHORIZED FOR THE MARINE CORPS.—Effective on the date specified in subsection (e), paragraph (2)(B) of such section is amended by striking ''16.2 percent'' and inserting ''17.5 percent''.

(c) GRADE OF CHIEF OF VETERINARY CORPS OF THE ARMY.—(1) Effective on the date specified in subsection (e), chapter 307 of such title is amended by adding at the end the following new section:

''§3084. Chief of Veterinary Corps: grade

''The Chief of the Veterinary Corps of the Army serves in the grade of brigadier general. An officer appointed to that position who holds a lower grade shall be appointed in the grade of brigadier general.''.

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

''3084. Chief of Veterinary Corps: grade.''.

(d) REVIEW OF ACTIVE DUTY AND RESERVE GENERAL AND FLAG OFFICER AUTHORIZATIONS.—(1) The Secretary of Defense shall submit to Congress a report containing any recommendations of the Secretary (together with the rationale of the Secretary for the recommendations) concerning the following:

(A) Revision of the limitations on general and flag officer grade authorizations and distribution in grade prescribed by sections 525, 526, and 12004 of title 10, United States Code.

(B) Statutory designation of the positions and grades of any additional general and flag officers in the commands specified in chapter 1006 of title 10, United States Code, and the reserve component offices specified in sections 3038, 5143, 5144, and 8038 of such title.

(2) The provisions of subsection (b) through (e) of section 1213 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2694) shall apply to the report under paragraph (1) in the same manner as they applied to the report required by subsection (a) of that section.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on the date of the receipt by Congress of the report required by subsection (d).

SEC. 405. EXTENSION OF CERTAIN AUTHORITIES RELATING TO MANAGEMENT OF NUMBERS OF GENERAL AND FLAG OFFICERS IN CERTAIN GRADES.

(a) SENIOR JOINT OFFICER POSITIONS.—Section 604(c) of title 10, United States Code, is amended by striking ''September 30, 2003'' and inserting ''December 31, 2004''.

(b) DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN GENERAL AND FLAG OFFICER GRADES.—

Section 525(b)(5)(C) of such title is amended by striking ''September 30, 2003'' and inserting ''December 31, 2004''.

(c) AUTHORIZED STRENGTH FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—Section 526(b)(3) of such title is amended by striking ''October 1, 2002'' and inserting ''December 31, 2004''.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2003, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 87,800.

(4) The Marine Corps Reserve, 39,558.

(5) The Air National Guard of the United States, 106,600.

(6) The Air Force Reserve, 75,600.

(7) The Coast Guard Reserve, 9,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2003, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 24,562.

(2) The Army Reserve, 14,070.

(3) The Naval Reserve, 14,572.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 11,697.

(6) The Air Force Reserve, 1,498.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2003 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army National Guard of the United States, 24,102.

(2) For the Army Reserve, 6,599.

(3) For the Air National Guard of the United States, 22,495.

(4) For the Air Force Reserve, 9,911.

SEC. 414. FISCAL YEAR 2003 LIMITATION ON NON-DUAL STATUS TECHNICIANS.

(a) ARMY.—The number of non-dual status technicians employed by the reserve components of the Army as of September 30, 2003, may not exceed the following:

(1) For the Army Reserve, 995.

(2) For the Army National Guard of the United States, 1,600, to be counted within the limitation specified in section 10217(c)(2) of title 10, United States Code.

(b) AIR FORCE.—The number of non-dual status technicians employed by the reserve components of the Army and the Air Force as of September 30, 2003, may not exceed the following:

(1) For the Air Force Reserve, 90.

(2) For the Air National Guard of the United States, 350, to be counted within the limitation specified in section 10217(c)(2) of title 10, United States Code.

(c) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term ''non-dual status technician'' has the meaning given that term in section 10217(a) of title 10, United States Code.

(d) TECHNICAL AMENDMENTS.—Effective October 1, 2002, section 10217(c)(2) of title 10, United States Code, is amended—

(1) in the first sentence, by striking ''Effective October 1, 2002, the'' and inserting ''The''; and

(2) in the second sentence, by striking ''after the preceding sentence takes effect''.

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2003 a total of $93,725,028,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2003.

TITLE V—MILITARY PERSONNEL POLICY

SEC. 501. INCREASE IN NUMBER OF DEPUTY COMMANDANTS OF THE MARINE CORPS.

Section 5045 of title 10, United States Code, is amended by striking ''five'' and inserting ''six''.

SEC. 502. EXTENSION OF GOOD-OF-THE-SERVICE WAIVER AUTHORITY FOR OFFICERS APPOINTED TO A RESERVE CHIEF OR GUARD DIRECTOR POSITION.

(a) WAIVER OF REQUIREMENT FOR SIGNIFICANT JOINT DUTY EXPERIENCE.—Sections 3038(b)(4), 5143(b)(4), 5144(b)(4), 8038(b)(4), and 10506(a)(3)(D) of title 10, United States Code, are each amended by striking ''October 1, 2003'' and inserting ''December 31, 2004''.

(b) REPORT ON FUTURE IMPLEMENTATION OF REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth the steps being taken (and proposed to be taken) by the Secretary, the Secretaries of the military departments, and the Chairman of the Joint Chiefs of Staff to ensure that no further extension of the waiver authority under the sections amended by subsection (a) is required and that after December 31, 2004, appointment of officers to serve in the positions covered by those sections shall be made from officers with the requisite joint duty experience.

Subtitle B—Reserve Component Management

SEC. 511. REVIEWS OF NATIONAL GUARD STRENGTH ACCOUNTING AND MANAGEMENT AND OTHER ISSUES.

(a) COMPTROLLER GENERAL ASSESSMENTS.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on management of the National Guard. The report shall include the following:

(1) The Comptroller General's assessment of the effectiveness of the implementation of Department of Defense plans for improving management and accounting for personnel strengths in the National Guard, including an assessment of the process that the Department of Defense, the National Guard Bureau, the Army National Guard and State-level National Guard leadership, and leadership in the other reserve components have for identifying and addressing in a timely manner specific units in which non-participation rates are significantly in excess of the established norms.

(2) The Comptroller General's assessment of the effectiveness of the process for Federal recognition of senior National Guard officers and recommendations for improvement to that process.

(3) The Comptroller General's assessment of the process for, and the nature and extent of, the administrative or judicial corrective action taken by the Secretary of Defense, the Secretary of the Army, and the Secretary of the Air Force as a result of Inspector General investigations or other investigations in which allegations against senior National Guard officers are substantiated in whole or in part.

(4) The Comptroller General's determination of the effectiveness of the Federal protections provided for members or employees of the National Guard who report allegations of waste, fraud, abuse, or mismanagement and the nature and extent to which corrective action is taken against those in the National Guard who retaliate against such members or employees.

(b) SECRETARY OF DEFENSE REPORT ON DIFFERENT ARMY AND AIR FORCE PROCEDURES.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the differing Army and Air Force policies for taking adverse administrative actions against National Guard officers in a State status. The report shall include the Secretary's determination as to whether changes should be made in those policies, especially through requiring the Air Force to adopt the same policy as the Army for such administrative actions.

SEC. 512. COURTS-MARTIAL FOR THE NATIONAL GUARD WHEN NOT IN FEDERAL SERVICE.

(a) MANNER OF PRESCRIBING PUNISHMENTS.—Section 326 of title 32, United States Code, is amended by adding at the end the following new sentence: ''Punishments shall be as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.''.

(b) CONVENING AUTHORITY.—Section 327 of such title is amended to read as follows:

''§ 327. Courts-martial of National Guard not in Federal service: convening authority

''(a) In the National Guard not in Federal service, general, special, and summary courts-martial may be convened as provided by the laws of the States and Territories, Puerto Rico, and the District of Columbia.

''(b) In addition to convening authorities as provided under subsection (a), in the National Guard not in Federal service—

''(1) general courts-martial may be convened by the President;

''(2) special courts-martial may be convened—

''(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty; or

''(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command; and

''(3) summary courts-martial may be convened—

''(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty; or

''(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment.''.

(2) The item relating to such section in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

''327. Courts-martial of National Guard not in Federal service: convening authority.''.

(c) REPEAL OF SUPERSEDED AND OBSOLETE PROVISIONS.—

(1) Sections 328, 329, 330, 331, 332, and 333 of title 32, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 3 of such title is amended by striking the items relating to sections 328, 329, 330, 331, 332, and 333.

(d) PREPARATION OF MODEL STATE CODE OF MILITARY JUSTICE AND MODEL STATE MANUAL FOR COURTS-MARTIAL.—(1) The Secretary of Defense shall prepare, for consideration for enactment by the States, a model State code of military justice and a model State manual of courts-martial for use with respect to the National Guard not in Federal service. Both such models shall be consistent with the recommendations contained in the report, issued in 1998, by the panel known as the Department of Defense Panel to Study Military Justice in the National Guard not in Federal Service.

(2) The Secretary shall ensure that adequate support for the preparation of such model State code and model State manual (including the detailing of attorneys and other staff) is provided by the General Counsel of the Department of Defense, the Secretary of the Army, the Secretary of the Air Force, and the Chief of the National Guard Bureau.

(3) If the amounts available to the Chief of the National Guard Bureau are not adequate for the costs required to provide support under paragraph (2) (including costs for increased pay when members of the National Guard are ordered to active duty, cost of detailed attorneys and other staff, allowances, and travel expenses), the Secretary shall, upon request of the Chief of the Bureau, provide such additional amounts as are necessary.

(4) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this subsection. The report shall include proposals in final form of both the model State code and the model State manual required by paragraph (1) and shall set forth the efforts being made to present those proposals to the States for their consideration for enactment.

(5) In this subsection, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

SEC. 513. MATCHING FUNDS REQUIREMENTS UNDER NATIONAL GUARD YOUTH CHALLENGE PROGRAM.

Effective October 1, 2002, subsection (d) of section 509 of title 32, United States Code, is amended to read as follows:

''(d) MATCHING FUNDS REQUIRED.—The amount of assistance provided under this section to a State program of the National Guard Challenge Program for a fiscal year may not exceed 75 percent of the costs of operating the State program during that fiscal year.''.

Subtitle C—Reserve Component Officer Personnel Policy

SEC. 521. EXEMPTION FROM ACTIVE STATUS STRENGTH LIMITATION FOR RESERVE COMPONENT GENERAL AND FLAG OFFICERS SERVING ON ACTIVE DUTY IN CERTAIN JOINT DUTY ASSIGNMENTS DESIGNATED BY THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

Section 12004 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) A general or flag officer who is on active duty but who is not counted under section 526(a) of this title by reason of section 526(b)(2)(B) of this title shall also be excluded from being counted under subsection (a).

''(2) This subsection shall cease to be effective on the date specified in section 526(b)(3) of this title.''.

SEC. 522. ELIGIBILITY FOR CONSIDERATION FOR PROMOTION TO GRADE OF MAJOR GENERAL FOR CERTAIN RESERVE COMPONENT BRIGADIER GENERALS WHO DO NOT OTHERWISE QUALIFY FOR CONSIDERATION FOR PROMOTION UNDER THE ONE-YEAR RULE.

Section 14301(g) of title 10, United States Code, is amended to read as follows:

''(g) BRIGADIER GENERALS.—(1) An officer who is a reserve component brigadier general of the Army or the Air Force who is not eligible for consideration for promotion under subsection (a) because the officer is not on the reserve active status list (as required by paragraph (1) of that subsection for such eligibility) is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

''(A) as of the date of the convening of the promotion board, the officer has been in an inactive status for less than one year; and

''(B) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list) for at least one year.

''(2) An officer who is a reserve component brigadier general of the Army or the Air Force who is on the reserve active status list but who is not eligible for consideration for promotion under subsection (a) because the officer's service does not meet the one-year-of-continuous-service requirement under paragraph (2) of that subsection is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

''(A) the officer was transferred from an inactive status to the reserve active status list during the one-year period preceding the date of the convening of the promotion board;

''(B) immediately before the date of the officer's most recent transfer to an active status, the officer had been in an inactive status for less than one year; and

''(C) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served for at least one year on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list).''.

SEC. 523. RETENTION OF PROMOTION ELIGIBILITY FOR RESERVE COMPONENT GENERAL AND FLAG OFFICERS TRANSFERRED TO AN INACTIVE STATUS.

Section 14317 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(f) EFFECT OF TRANSFER OF OFFICERS IN PAY GRADE O–7 TO INACTIVE STATUS.—Notwithstanding subsection (a), if a reserve officer on the active-status list in the grade of brigadier general or rear admiral (lower half) is transferred to an inactive status after having been recommended for promotion to the grade of major general or rear admiral under this chapter, or after having been found qualified for Federal recognition in the grade of major general under title 32, but before being promoted, the officer shall retain promotion eligibility and, if otherwise qualified, may be promoted to the higher grade after returning to an active status.''.

SEC. 524. AUTHORITY FOR LIMITED EXTENSION OF MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARATION FOR RESERVE OFFICERS.

(a) DEFERMENT OF RETIREMENT OR SEPARATION FOR MEDICAL REASONS.—Chapter 1407 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 14519. Deferment of retirement or separation for medical reasons

''(a) If the Secretary of the military department concerned determines that the evaluation of the physical condition of a Reserve officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization or medical observation and that such hospitalization or medical observation cannot be completed with confidence in a manner consistent with the officer's well-being before the date on which the officer would otherwise be required to be separated, retired, or transferred to the Retired Reserve under this title, the Secretary may defer the separation, retirement, or transfer of the officer under this title.

''(b) A deferral under subsection (a) of separation, retirement, or transfer to the Retired Reserve may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.''.

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

''14519. Deferment of retirement or separation for medical reasons.''.

Subtitle D—Education and Training

SEC. 531. AUTHORITY FOR PHASED INCREASE TO 4,400 IN AUTHORIZED STRENGTHS FOR THE SERVICE ACADEMIES.

(a) MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: ''or such higher number as may be prescribed by the Secretary of the Army under subsection (j)''; and

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

''(j)(1) Beginning with the 2003–2004 academic year, the Secretary of the Army may prescribe annual increases in the cadet strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 cadets or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the cadet strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

''(2) Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the cadet strength limit and the new cadet strength limit, as so increased, and the amount of the increase in Senior Army Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

''(3) The amount of an increase under paragraph (1) in the cadet strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of cadets enrolled in the Army Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

''(4) In this subsection, the term 'cadet strength limit' means the authorized maximum strength of the Corps of Cadets of the Academy.''.

(b) NAVAL ACADEMY.—Section 6954 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: ''or such higher number as may be prescribed by the Secretary of the Navy under subsection (h)''; and

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

''(h)(1) Beginning with the 2003–2004 academic year, the Secretary of the Navy may prescribe

annual increases in the midshipmen strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 midshipmen or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the midshipmen strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

''(2) Any increase in the midshipmen strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the midshipmen strength limit and the new midshipmen strength limit, as so increased, and the amount of the increase in Senior Navy Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

''(3) The amount of an increase under paragraph (1) in the midshipmen strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of midshipmen enrolled in the Navy Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

''(4) In this subsection, the term 'midshipmen strength limit' means the authorized maximum strength of the Brigade of Midshipmen.''.

(c) AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: ''or such higher number as may be prescribed by the Secretary of the Air Force under subsection (j)''; and

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

''(j)(1) Beginning with the 2003–2004 academic year, the Secretary of the Air Force may prescribe annual increases in the cadet strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 cadets or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the cadet strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

''(2) Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under sections 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the cadet strength limit and the new cadet strength limit, as so increased, and the amount of the increase in Senior Air Force Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

''(3) The amount of an increase under paragraph (1) in the cadet strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of cadets enrolled in the Air Force Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

''(4) In this subsection, the term 'cadet strength limit' means the authorized maximum strength of Air Force Cadets of the Academy.''.

(d) TARGET FOR INCREASES IN NUMBER OF ROTC SCHOLARSHIP PARTICIPANTS.—Section 2107 of such title is amended by adding at the end the following new subsection:

''(i) The Secretary of each military department shall seek to achieve an increase in the number of agreements entered into under this section so as to achieve an increase, by the 2006–2007 academic year, of not less than 400 in the number of cadets or midshipmen, as the case may be, enrolled under this section, compared to such number enrolled for the 2002–2003 academic year. In the case of the Secretary of the Navy, the Secretary shall seek to ensure that not less than one-third of such increase in agreements under this section are with students enrolled (or seeking to enroll) in programs of study leading to a baccalaureate degree in nuclear engineering or another appropriate technical, scientific, or engineering field of study.''.

(e) REPEAL OF LIMIT ON NUMBER OF ROTC SCHOLARSHIPS.—Section 2107 of such title is further amended by striking the first sentence of subsection (h)(1).

(f) REPEAL OF OBSOLETE LANGUAGE.—Section 4342(i) of such title is amended by striking ''(beginning with the 2001–2002 academic year)''.

SEC. 532. ENHANCEMENT OF RESERVE COMPONENT DELAYED TRAINING PROGRAM.

(a) INCREASE IN TIME FOLLOWING ENLISTMENT FOR COMMENCEMENT OF INITIAL PERIOD OF ACTIVE DUTY FOR TRAINING.—Section 12103(d) of title 10, United States Code, is amended by striking ''270 days'' in the last sentence and inserting ''one year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to enlistments under section 12103(d) of title 10, United States Code, after the end of the 90–day period beginning on the date of the enactment of this Act.

(c) TRANSITION.—In the case of a person who enlisted under section 12103(d) of title 10, United States Code, before the date of the enactment of this Act and who as of such date has not commenced the required initial period of active duty for training under that section, the amendment made by subsection (a) may be applied to that person, but only with the agreement of that person and the Secretary concerned.

Subtitle E—Decorations and Awards

SEC. 541. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO CERTAIN PERSONS.

(a) WAIVER.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in this section, the award of each such decoration having been determined by the Secretary concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) DISTINGUISHED FLYING CROSS.—Subsection (a) applies to the award of the Distinguished Flying Cross (including multiple awards to the same individual) in the case of each individual concerning whom the Secretary of the military department concerned (or a designated official acting on behalf of the Secretary of the military department concerned) submitted to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, during the period beginning on December 28, 2001, and ending on the day before the date of the enactment of this Act, a notice as provided in section 1130(b) of title 10, United States Code, that the award of the Distinguished Flying Cross to that individual is warranted and that a waiver of time restrictions prescribed by law for recommendation for such award is recommended.

SEC. 542. OPTION TO CONVERT AWARD OF ARMED FORCES EXPEDITIONARY MEDAL AWARDED FOR OPERATION FREQUENT WIND TO VIETNAM SERVICE MEDAL.

(a) IN GENERAL.—The Secretary of the military department concerned shall, upon the application of an individual who is an eligible Vietnam evacuation veteran, award that individual the Vietnam Service Medal, notwithstanding any otherwise applicable requirements for the award of that medal. Any such award shall be made in lieu of the Armed Forces Expeditionary Medal awarded the individual for participation in Operation Frequent Wind.

(b) ELIGIBLE VIETNAM EVACUATION VETERAN.—For purposes of this section, the term ''eligible Vietnam evacuation veteran'' means a member or former member of the Armed Forces who was awarded the Armed Forces Expeditionary Medal for participation in military operations designated as Operation Frequent Wind arising from the evacuation of Vietnam on April 29 and 30, 1975.

Subtitle F—Administrative Matters

SEC. 551. STAFFING AND FUNDING FOR DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE.

(a) REQUIREMENT FOR STAFFING AND FUNDING AT LEVELS REQUIRED FOR PERFORMANCE OF FULL RANGE OF MISSIONS.—Subsection (a) of section 1501 of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) The Secretary of Defense shall ensure that the office is provided sufficient military and civilian personnel levels, and sufficient funding, to enable the office to fully perform its complete range of missions. The Secretary shall ensure that Department of Defense programming, planning, and budgeting procedures are structured so as to ensure compliance with the preceding sentence for each fiscal year.

''(B) For any fiscal year, the number of military and civilian personnel assigned or detailed to the office may not be less than the number requested in the President's budget for fiscal year 2003, unless a level below such number is expressly required by law.

''(C) For any fiscal year, the level of funding allocated to the office within the Department of Defense may not be below the level requested for such purposes in the President's budget for fiscal year 2003, unless such a level of funding is expressly required by law.''.

(b) NAME OF OFFICE.—Such subsection is further amended by inserting after the first sentence of paragraph (1) the following new sentence: ''Such office shall be known as the Defense Prisoner of War/Missing Personnel Office.''.

SEC. 552. THREE-YEAR FREEZE ON REDUCTIONS OF PERSONNEL OF AGENCIES RESPONSIBLE FOR REVIEW AND CORRECTION OF MILITARY RECORDS.

(a) IN GENERAL.—Chapter 79 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1559. Personnel limitation

''(a) LIMITATION.—During fiscal years 2003, 2004, and 2005, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until—

''(1) the Secretary submits to Congress a report that—

''(A) describes the reduction proposed to be made;

''(B) provides the Secretary's rationale for that reduction; and

''(C) specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

''(2) a period of 90 days has elapsed after the date on which the report is submitted.

''(b) BASELINE NUMBER.—The baseline number for a service review agency under this section is—

''(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of January 1, 2002; and

''(2) for purposes of any subsequent report with respect to a service review agency under

this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

''(c) SERVICE REVIEW AGENCY DEFINED.—In this section, the term 'service review agency' means—

''(1) with respect to the Department of the Army, the Army Review Boards Agency;

''(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

''(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.''.

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

''1559. Personnel limitation.''.

SEC. 553. DEPARTMENT OF DEFENSE SUPPORT FOR PERSONS PARTICIPATING IN MILITARY FUNERAL HONORS DETAILS.

Section 1491(d) of title 10, United States Code, is amended—

(1) by striking ''To provide a'' after ''SUPPORT.—'' and inserting ''(1) To support a'';

(2) by redesignating paragraph (1) as subparagraph (A) and amending such subparagraph, as so redesignated, to read as follows:

''(A) For a person who participates in a funeral honors detail (other than a person who is a member of the armed forces not in a retired status or an employee of the United States), either transportation (or reimbursement for transportation) and expenses or the daily stipend prescribed under paragraph (2).'';

(3) by redesignating paragraph (2) as subparagraph (B) and in that subparagraph—

(A) by striking ''Materiel, equipment, and training for'' and inserting ''For''; and

(B) by inserting before the period at the end ''and for members of the armed forces in a retired status, materiel, equipment, and training'';

(4) by redesignating paragraph (3) as subparagraph (C) and in that subparagraph—

(A) by striking ''Articles of clothing for'' and inserting ''For''; and

(B) by inserting '', articles of clothing'' after ''subsection (b)(2)''; and

(5) by adding at the end the following new paragraphs:

''(2) The Secretary of Defense shall prescribe annually a flat rate daily stipend for purposes of paragraph (1)(A). Such stipend shall be set at a rate so as to encompass typical costs for transportation and other miscellaneous expenses for persons participating in funeral honors details who are members of the armed forces in a retired status and other persons are not members of the armed forces or employees of the United States.

''(3) A stipend paid under this subsection to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under section 435(a)(2) of title 37 and any other compensation to which the member may be entitled.''.

SEC. 554. AUTHORITY FOR USE OF VOLUNTEERS AS PROCTORS FOR ADMINISTRATION OF ARMED SERVICES VOCATIONAL APTITUDE BATTERY TEST.

Section 1588(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) Voluntary services as a proctor for administration to secondary school students of the test known as the 'Armed Services Vocational Aptitude Battery'.''.

SEC. 555. ANNUAL REPORT ON STATUS OF FEMALE MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 23 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 488. Status of female members of the armed forces: annual report

''(a) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report on the status of female members of the armed forces. Information in the report shall be shown for the Department of Defense as a whole and separately for each of the Army, Navy, Air Force, and Marine Corps.

''(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include, at a minimum, the following information with respect to female members:

''(1) Access to health care.

''(2) Positions open.

''(3) Assignment policies.

''(4) Joint spouse assignments.

''(5) Deployment availability rates.

''(6) Promotion and retention rates.

''(7) Assignments in nontraditional fields.

''(8) Assignments to command positions.

''(9) Selection for service schools.

''(10) Sexual harassment.''.

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

''488. Status of female members of the armed forces: annual report.''.

Subtitle G—Benefits

SEC. 561. VOLUNTARY LEAVE SHARING PROGRAM FOR MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—(1) Chapter 40 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 709. Voluntary transfers of leave

''(a) PROGRAM.—The Secretary concerned shall, by regulation, establish a program under which leave accrued by a member of an armed force may be transferred to another member of the same armed force who requires additional leave because of a qualifying emergency. Any such transfer of leave may be made only upon the voluntary written application of the member whose leave is to be transferred.

''(b) APPROVAL OF COMMANDING OFFICER REQUIRED.—Any transfer of leave under a program under this section may only be made with the approval of the commanding officer of the leave donor and the leave recipient.

''(c) QUALIFYING EMERGENCY.—In this section, the term 'qualifying emergency', with respect to a member of the armed forces, means a circumstance that—

''(1) is likely to require the prolonged absence of the member from duty; and

''(2) is due to—

''(A) a medical condition of a member of the immediate family of the member; or

''(B) any other hardship that the Secretary concerned determines appropriate for purposes of this section.

''(d) MILITARY DEPARTMENT REGULATIONS.—Regulations prescribed under this section by the Secretaries of the military department shall be as uniform as practicable and shall be subject to approval by the Secretary of Defense.''.

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

''709. Voluntary transfers of leave.''.

(b) DEADLINE FOR IMPLEMENTING REGULATIONS.—Regulations to implement section 709 of title 10, United States Code, as added by subsection (a), shall be prescribed not later than six months after the date of the enactment of this Act.

SEC. 562. ENHANCED FLEXIBILITY IN MEDICAL LOAN REPAYMENT PROGRAM.

(a) ELIGIBLE PERSONS.—Subsection (d) of section 2173 of title 10, United States Code, is amended by striking ''Participants'' and all that follows through ''and students'' and inserting ''Students''.

(b) LOAN REPAYMENT AMOUNTS.—Subsection (e)(2) of such section is amended by striking the last sentence.

SEC. 563. EXPANSION OF OVERSEAS TOUR EXTENSION BENEFITS.

Section 705(b)(2) of title 10, United States Code, is amended—

(1) by striking ''recuperative'' and inserting ''recuperation''; and

(2) by inserting before the period at the end the following: '', or to an alternate location at a cost not to exceed the cost of transportation to the nearest port in the 48 contiguous States, and return''.

SEC. 564. VEHICLE STORAGE IN LIEU OF TRANSPORTATION WHEN MEMBER IS ORDERED TO A NONFOREIGN DUTY STATION OUTSIDE CONTINENTAL UNITED STATES.

(a) STORAGE COSTS AUTHORIZED.—Subsection (b) of section 2634 of title 10, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

''(b)(1) When a member receives a vehicle storage qualifying order, the member may elect to have a motor vehicle described in subsection (a) stored at the expense of the United States at a location approved by the Secretary concerned. In the case of a vehicle storage qualifying order that is to make a change of permanent station, such storage is in lieu of transportation authorized by subsection (a).

''(2) In this subsection, the term 'vehicle storage qualifying order' means any of the following:

''(A) An order to make a change of permanent station to a foreign country in a case in which the laws, regulations, or other restrictions imposed by the foreign country or by the United States either—

''(i) preclude entry of a motor vehicle described in subsection (a) into that country; or

''(ii) would require extensive modification of the vehicle as a condition to entry.

''(B) An order to make a change of permanent station to a nonforeign area outside the continental United States in a case in which the laws, regulations, or other restrictions imposed by that area or by the United States either—

''(i) preclude entry of a motor vehicle described in subsection (a) into that area; or

''(ii) would require extensive modification of the vehicle as a condition to entry.

''(C) An order under which a member is transferred or assigned in connection with a contingency operation to duty at a location other than the permanent station of the member for a period of more than 30 consecutive days but which is not considered a change of permanent station.''.

(b) NONFOREIGN AREA OUTSIDE THE CONTINENTAL UNITED STATES DEFINED.—Subsection (h) of such section is amended by adding at the end the following new paragraph:

''(3) The term 'nonforeign area outside the continental United States' means any of the following: the States of Alaska and Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and any possession of the United States.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to orders to make a change of permanent station to a nonforeign area outside the continental United States (as such term is defined in subsection (h)(3) of section 2634 of title 10, United States Code, as added by subsection (b)) that are issued on or after the date of the enactment of this Act.

Subtitle H—Military Justice Matters

SEC. 571. RIGHT OF CONVICTED ACCUSED TO REQUEST SENTENCING BY MILITARY JUDGE.

(a) SENTENCING BY JUDGE.—(1) Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 852 (article 52) the following new section:

''§ 852a. Art. 52a. Right of accused to request sentencing by military judge rather than by members

''(a) In the case of an accused convicted of an offense by a court-martial composed of a military judge and members, the sentence shall be tried before and adjudged by the military judge

rather than the members if, after the findings are announced and before evidence in the sentencing proceeding is introduced, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests orally on the record or in writing that the sentence be tried before and adjudged by the military judge rather than the members.

''(b) This section shall not apply with respect to an offense for which the death penalty may be adjudged unless the case has been previously referred to trial as a noncapital case.''.

(2) The table of sections at the beginning of subchapter VII of such chapter is amended by inserting after the item relating to section 852 (article 52) the following new item:

''852a. 52a. Right of accused to request sentencing by military judge rather than by members.''.

(b) EFFECTIVE DATE.—Section 852a of title 10, United States Code (article 52a of the Uniform Code of Military Justice), as added by subsection (a), shall apply with respect to offenses committed on or after January 1, 2003.

SEC. 572. REPORT ON DESIRABILITY AND FEASIBILITY OF CONSOLIDATING SEPARATE COURSES OF BASIC INSTRUCTION FOR JUDGE ADVOCATES.

Not later than February 1, 2003, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the desirability and feasibility of consolidating the separate Army, Navy, and Air Force courses of basic instruction for judge advocates into a single course to be conducted at a single location. The report shall include—

(1) an assessment of the advantages and disadvantages of such a consolidation;

(2) a recommendation as to whether such a consolidation is desirable and feasible; and

(3) any proposal for legislative action that the Secretary considers appropriate for carrying out such a consolidation.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2003.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2003 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2003, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

COMMISSIONED OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	7,474.50	7,719.30	7,881.60	7,927.20	8,129.40
O–7	6,210.90	6,499.20	6,633.00	6,739.20	6,930.90
O–6	4,603.20	5,057.10	5,388.90	5,388.90	5,409.60
O–5	3,837.60	4,323.00	4,622.40	4,678.50	4,864.80
O–4	3,311.10	3,832.80	4,088.70	4,145.70	4,383.00
O–3[3]	2,911.20	3,300.30	3,562.20	3,883.50	4,069.50
O–2[3]	2,515.20	2,864.70	3,299.40	3,410.70	3,481.20
O–1[3]	2,183.70	2,272.50	2,746.80	2,746.80	2,746.80
	Over 8	Over 10	Over 12	Over 14	Over 16
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	8,468.70	8,547.30	8,868.90	8,961.30	9,238.20
O–7	7,120.80	7,340.40	7,559.40	7,779.00	8,468.70
O–6	5,641.20	5,672.10	5,672.10	5,994.60	6,564.30
O–5	4,977.00	5,222.70	5,403.00	5,635.50	5,991.90
O–4	4,637.70	4,954.50	5,201.40	5,372.70	5,471.10
O–3[3]	4,273.50	4,405.80	4,623.30	4,736.10	4,736.10
O–2[3]	3,481.20	3,481.20	3,481.20	3,481.20	3,481.20
O–1[3]	2,746.80	2,746.80	2,746.80	2,746.80	2,746.80
	Over 18	Over 20	Over 22	Over 24	Over 26
O–10[2]	$0.00	$12,077.70	$12,137.10	$12,389.40	$12,829.20
O–9	0.00	10,563.60	10,715.70	10,935.60	11,319.60
O–8	9,639.00	10,008.90	10,255.80	10,255.80	10,255.80
O–7	9,051.30	9,051.30	9,051.30	9,051.30	9,096.90
O–6	6,898.80	7,233.30	7,423.50	7,616.10	7,989.90
O–5	6,161.70	6,329.10	6,519.60	6,519.60	6,519.60
O–4	5,528.40	5,528.40	5,528.40	5,528.40	5,528.40
O–3[3]	4,736.10	4,736.10	4,736.10	4,736.10	4,736.10
O–2[3]	3,481.20	3,481.20	3,481.20	3,481.20	3,481.20
O–1[3]	2,746.80	2,746.80	2,746.80	2,746.80	2,746.80

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades 0–7 through O–10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, the rate of basic pay for this grade is $14,155.50, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–3E	$0.00	$0.00	$0.00	$3,883.50	$4,069.50
O–2E	0.00	0.00	0.00	3,410.70	3,481.20
O–1E	0.00	0.00	0.00	2,746.80	2,933.70
	Over 8	Over 10	Over 12	Over 14	Over 16
O–3E	$4,273.50	$4,405.80	$4,623.30	$4,806.30	$4,911.00
O–2E	3,591.90	3,778.80	3,923.40	4,031.10	4,031.10
O–1E	3,042.00	3,152.70	3,261.60	3,410.70	3,410.70
	Over 18	Over 20	Over 22	Over 24	Over 26

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–3E	$5,054.40	$5,054.40	$5,054.40	$5,054.40	$5,054.40
O–2E	4,031.10	4,031.10	4,031.10	4,031.10	4,031.10
O–1E	3,410.70	3,410.70	3,410.70	3,410.70	3,410.70

WARRANT OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,008.10	3,236.10	3,329.10	3,420.60	3,578.10
W–3	2,747.10	2,862.00	2,979.30	3,017.70	3,141.00
W–2	2,416.50	2,554.50	2,675.10	2,763.00	2,838.30
W–1	2,133.90	2,308.50	2,425.50	2,501.10	2,662.50
	Over 8	Over 10	Over 12	Over 14	Over 16
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,733.50	3,891.00	4,044.60	4,203.60	4,356.00
W–3	3,281.70	3,467.40	3,580.50	3,771.90	3,915.60
W–2	2,993.10	3,148.50	3,264.00	3,376.50	3,453.90
W–1	2,782.20	2,888.40	3,006.90	3,085.20	3,203.40
	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$5,169.30	$5,346.60	$5,524.50	$5,703.30
W–4	4,512.00	4,664.40	4,822.50	4,978.20	5,137.50
W–3	4,058.40	4,201.50	4,266.30	4,407.00	4,548.00
W–2	3,579.90	3,705.90	3,831.00	3,957.30	3,957.30
W–1	3,320.70	3,409.50	3,409.50	3,409.50	3,409.50

[1] *Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.*

ENLISTED MEMBERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9[2]	$0.00	$0.00	$0.00	$0.00	$0.00
E–8	0.00	0.00	0.00	0.00	0.00
E–7	2,068.50	2,257.80	2,343.90	2,428.20	2,516.40
E–6	1,770.60	1,947.60	2,033.70	2,117.10	2,204.10
E–5	1,625.40	1,733.70	1,817.40	1,903.50	2,037.00
E–4	1,502.70	1,579.80	1,665.30	1,749.30	1,824.00
E–3	1,356.90	1,442.10	1,528.80	1,528.80	1,528.80
E–2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E–1	[3] 1,150.80	1,150.80	1,150.80	1,150.80	1,150.80
	Over 8	Over 10	Over 12	Over 14	Over 16
E–9[2]	$0.00	$3,564.30	$3,645.00	$3,747.00	$3,867.00
E–8	2,975.40	3,061.20	3,141.30	3,237.60	3,342.00
E–7	2,667.90	2,753.40	2,838.30	2,990.40	3,066.30
E–6	2,400.90	2,477.40	2,562.30	2,636.70	2,663.10
E–5	2,151.90	2,236.80	2,283.30	2,283.30	2,283.30
E–4	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00
E–3	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80
E–2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E–1	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80
	Over 18	Over 20	Over 22	Over 24	Over 26
E–9[2]	$3,987.30	$4,180.80	$4,344.30	$4,506.30	$4,757.40
E–8	3,530.10	3,625.50	3,787.50	3,877.50	4,099.20
E–7	3,138.60	3,182.70	3,331.50	3,427.80	3,671.40
E–6	2,709.60	2,709.60	2,709.60	2,709.60	2,709.60
E–5	2,283.30	2,283.30	2,283.30	2,283.30	2,283.30
E–4	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00
E–3	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80
E–2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E–1	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80

[1] *Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.*

[2] *Subject to the preceding footnote, while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, basic pay for this grade is $5,732.70, regardless of cumulative years of service computed under section 205 of title 37, United States Code.*

[3] *In the case of members in pay grade E–1 who have served less than 4 months on active duty, the rate of basic pay is $1,064.70.*

SEC. 602. EXPANSION OF BASIC ALLOWANCE FOR HOUSING LOW-COST OR NO-COST MOVES AUTHORITY TO MEMBERS ASSIGNED TO DUTY OUTSIDE UNITED STATES.

Section 403(c) of title 37, United States Code, is amended by adding at the end the following new paragraph:

''(4) In the case of a member who is assigned to duty outside of the United States, the location or the circumstances of which make it necessary that the member be reassigned under the conditions of low-cost or no-cost permanent change of station or permanent change of assignment, the member may be treated as if the member were not reassigned if the Secretary concerned determines that it would be inequitable to base the member's entitlement to, and amount of, a basic allowance for housing on the cost of housing in the area to which the member is reassigned.''.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(d) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(f) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking ''January 1, 2003'' and inserting ''January 1, 2004''.

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(c) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(d) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

(e) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking ''December 31, 2002'' and inserting ''December 31, 2003''.

SEC. 615. MINIMUM LEVELS OF HARDSHIP DUTY PAY FOR DUTY ON THE GROUND IN ANTARCTICA OR ON ARCTIC ICEPACK.

Section 305 of title 37, United States Code, is amended—

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

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

''(b) DUTY IN CERTAIN LOCATIONS.—(1) In the case of duty at a location described in paragraph (2) at any time during a month, the member of a uniformed service performing that duty is entitled to special pay under this section at a monthly rate of not less than $240, but not to exceed the monthly rate specified in subsection (a). For each day of that duty during the month, the member shall receive an amount equal to 1/30 of the monthly rate prescribed under this subsection.

''(2) Paragraph (1) applies with respect to duty performed on the ground in Antarctica or on the Arctic icepack.''.

SEC. 616. INCREASE IN MAXIMUM RATES FOR PRIOR SERVICE ENLISTMENT BONUS.

Section 308i(b)(1) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking ''$5,000'' and inserting ''$8,000'';

(2) in subparagraph (B), by striking ''$2,500'' and inserting ''$4,000''; and

(3) in subparagraph (C), by striking ''$2,000'' and inserting ''$3,500''.

SEC. 617. RETENTION INCENTIVES FOR HEALTH CARE PROVIDERS QUALIFIED IN A CRITICAL MILITARY SKILL.

(a) EXCEPTION TO LIMITATION ON MAXIMUM BONUS AMOUNT.—Subsection (d) of section 323 of title 37, United States Code, is amended—

(1) by inserting ''(1)'' before ''A member''; and

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

''(2) The limitation in paragraph (1) on the total bonus payments that a member may receive under this section does not apply with respect to an officer who is assigned duties as a health care provider.''.

(b) EXCEPTION TO YEARS OF SERVICE LIMITATION.—Subsection (e) of such section is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting ''(1)'' before ''A retention''; and

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

''(2) The limitations in paragraph (1) do not apply with respect to an officer who is assigned duties as a health care provider during the period of active duty for which the bonus is being offered.''.

Subtitle C—Travel and Transportation Allowances

SEC. 631. EXTENSION OF LEAVE TRAVEL DEFERRAL PERIOD FOR MEMBERS PERFORMING CONSECUTIVE OVERSEAS TOURS OF DUTY.

(a) AUTHORIZED DEFERRAL PERIOD.—Section 411b of title 37, United States Code is amended by inserting after subsection (a) the following new subsection:

''(b) AUTHORITY TO DEFER TRAVEL; LIMITATIONS.—(1) Under the regulations referred to subsection (a), a member may defer the travel for which the member is paid travel and transportation allowances under this section until anytime before the completion of the consecutive tour at the same duty station or the completion of the tour of duty at the new duty station under the order involved, as the case may be.

''(2) If a member is unable to undertake the travel before expiration of the deferral period under paragraph (1) because of duty in connection with a contingency operation, the member may defer the travel until not more than one year after the date on which the member's duty in connection with the contingency operation ends.''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a)—

(A) by striking ''(a)(1)'' and inserting ''(a) ALLOWANCES AUTHORIZED.—''; and

(B) by striking paragraph (2); and

(2) by striking ''(b) The allowances'' and inserting ''(c) LIMITATION ON ALLOWANCE RATE.—''.

(c) APPLICATION OF AMENDMENT.—Subsection (b) of section 411b of title 37, United States Code, as added by subsection (a), shall apply with respect to members of the uniformed services in a deferred leave travel status under such section as of the date of the enactment of this Act or after that date.

Subtitle D—Retired Pay and Survivors Benefits

SEC. 641. PHASE-IN OF FULL CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS DISABILITY COMPENSATION FOR MILITARY RETIREES WITH DISABILITIES RATED AT 60 PERCENT OR HIGHER.

(a) CONCURRENT RECEIPT.—Section 1414 of title 10, United States Code, is amended to read as follows:

''§ 1414. Members eligible for retired pay who have service-connected disabilities rated at 60 percent or higher: concurrent payment of retired pay and veterans' disability compensation

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (hereinafter in this section referred to as a 'qualified retiree') is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38. For fiscal years 2003 through 2006, payment of retired pay to such a member or former member is subject to subsection (c).

''(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

''(1) CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but

only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(2) DISABILITY RETIREES WITH LESS THAN 20 YEARS OF SERVICE.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(c) PHASE-IN OF FULL CONCURRENT RECEIPT.—For fiscal years 2003 through 2006, retired pay payable to a qualified retiree shall be determined as follows:

''(1) FISCAL YEAR 2003.—For a month during fiscal year 2003, the amount of retired pay payable to a qualified retiree is the amount (if any) of retired pay in excess of the current baseline offset plus the following:

''(A) For a month for which the retiree receives veterans' disability compensation for a qualifying service-connected disability rated as total, $750.

''(B) For a month for which the retiree receives veterans' disability compensation for a qualifying service-connected disability rated as 90 percent, $500.

''(C) For a month for which the retiree receives veterans' disability compensation for a qualifying service-connected disability rated as 80 percent, $250.

''(D) For a month for which the retiree receives veterans' disability compensation for a qualifying service-connected disability rated as 70 percent, $250.

''(E) For a month for which the retiree receives veterans' disability compensation for a qualifying service-connected disability rated as 60 percent, $125.

''(2) FISCAL YEAR 2004.—For a month during fiscal year 2004, the amount of retired pay payable to a qualified retiree is the sum of—

''(A) the amount specified in paragraph (1) for that qualified retiree; and

''(B) 23 percent of the difference between (i) the current baseline offset, and (ii) the amount specified in paragraph (1) for that member's disability.

''(3) FISCAL YEAR 2005.—For a month during fiscal year 2005, the amount of retired pay payable to a qualified retiree is the sum of—

''(A) the amount determined under paragraph (2) for that qualified retiree; and

''(B) 30 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (2) for that qualified retiree.

''(4) FISCAL YEAR 2006.—For a month during fiscal year 2006, the amount of retired pay payable to a qualified retiree is the sum of—

''(A) the amount determined under paragraph (3) for that qualified retiree; and

''(B) 64 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (3) for that qualified retiree.

''(d) DEFINITIONS.—In this section:

''(1) RETIRED PAY.—The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) VETERANS' DISABILITY COMPENSATION.—The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.

''(3) SERVICE-CONNECTED.—The term 'service-connected' has the meaning given that term in section 101(16) of title 38.

''(4) QUALIFYING SERVICE-CONNECTED DISABILITY.—The term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated as not less than 60 percent disabling by the Secretary of Veterans Affairs.

''(5) DISABILITY RATED AS TOTAL.—The term 'disability rated as total' means—

''(A) a disability, or combination of disabilities, that is rated as total under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

''(B) a disability, or combination of disabilities, for which the scheduled rating is less than total but for which a rating of total is assigned by reason of inability of the disabled person concerned to secure or follow a substantially gainful occupation as a result of service-connected disabilities.

''(6) CURRENT BASELINE OFFSET.—

''(A) IN GENERAL.—The term 'current baseline offset' for any qualified retiree means the amount for any month that is the lesser of—

''(i) the amount of the applicable monthly retired pay of the qualified retiree for that month; and

''(ii) the amount of monthly veterans' disability compensation to which the qualified retiree is entitled for that month.

''(B) APPLICABLE RETIRED PAY.—In subparagraph (A), the term 'applicable retired pay' for a qualified retiree means the amount of monthly retired pay to which the qualified retiree is entitled, determined without regard to this section or sections 5304 and 5305 of title 38), except that in the case of such a retiree who was retired under chapter 61 of this title, such amount is the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.''.

(b) REPEAL OF SPECIAL COMPENSATION AUTHORITY.—Section 1413 of title 10, United States Code, is repealed.

(c) PAYMENT OF INCREASED RETIRED PAY COSTS DUE TO CONCURRENT RECEIPT.—(1) Section 1465(b) of such title is amended by adding at the end the following new paragraph:

''(3) At the same time that the Secretary of Defense makes the determination required by paragraph (1) for any fiscal year, the Secretary shall determine the amount of the Treasury contribution to be made to the Fund for the next fiscal year under section 1466(b)(2)(D) of this title. That amount shall be determined in the same manner as the determination under paragraph (1) of the total amount of Department of Defense contributions to be made to the Fund during that fiscal year under section 1466(a) of this title, except that for purposes of this paragraph the Secretary, in making the calculations required by subparagraphs (A) and (B) of that paragraph, shall use the single level percentages determined under subsection (c)(4), rather than those determined under subsection (c)(1).''.

(2) Section 1465(c) of such title is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting before the semicolon at the end the following: '', to be determined without regard to section 1414 of this title'';

(ii) in subparagraph (B), by inserting before the period at the end the following: '', to be determined without regard to section 1414 of this title''; and

(iii) in the sentence following subparagraph (B), by striking ''subsection (b)'' and inserting ''subsection (b)(1)'';

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

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

''(4) Whenever the Secretary carries out an actuarial valuation under paragraph (1), the Secretary shall include as part of such valuation the following:

''(A) A determination of a single level percentage determined in the same manner as applies under subparagraph (A) of paragraph (1), but based only upon the provisions of section 1414 of this title.

''(B) A determination of a single level percentage determined in the same manner as applies under subparagraph (B) of paragraph (1), but based only upon the provisions of section 1414 of this title.

Such single level percentages shall be used for the purposes of subsection (b)(3).''.

(3) Section 1466(b) of such title is amended—

(A) in paragraph (1), by striking ''sections 1465(a) and 1465(c)'' and inserting ''sections 1465(a), 1465(b)(3), 1465(c)(2), and 1465(c)(3)''; and

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

''(D) The amount for that year determined by the Secretary of Defense under section 1465(b)(3) of this title for the cost to the Fund arising from increased amounts payable from the Fund by reason of section 1414 of this title.''.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of such title is amended—

(1) by striking the item relating to section 1413; and

(2) by striking the item relating to section 1414 and inserting the following:

''1414. Members eligible for retired pay who have service-connected disabilities rated at 60 percent or higher: concurrent payment of retired pay and veterans' disability compensation.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to retired pay payable for months after September 2002.

SEC. 642. CHANGE IN SERVICE REQUIREMENTS FOR ELIGIBILITY FOR RETIRED PAY FOR NON-REGULAR SERVICE.

(a) REDUCTION IN REQUIREMENT FOR YEARS OF RESERVE COMPONENT SERVICE BEFORE RETIRED PAY ELIGIBILITY.—Section 12731(a)(3) of title 10, United States Code, is amended by striking ''eight years'' and inserting ''six years''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 643. ELIMINATION OF POSSIBLE INVERSION IN RETIRED PAY COST-OF-LIVING ADJUSTMENT FOR INITIAL COLA COMPUTATION.

(a) ELIMINATION OF POSSIBLE COLA INVERSION.—Section 1401a of title 10, United States Code, is amended—

(1) in subsections (c)(1), (d), and (e), by inserting ''but subject to subsection (f)(2)'' after ''Notwithstanding subsection (b)'';

(2) in subsection (c)(2), by inserting ''(subject to subsection (f)(2) as applied to other members whose retired pay is computed on the current rates of basic pay in the most recent adjustment under this section)'' after ''shall be increased''; and

(3) in subsection (f)—

(A) by designating the text after the subsection heading as paragraph (1), indenting that text two ems, and inserting ''(1) PREVENTION OF RETIRED PAY INVERSIONS.—'' before ''Notwithstanding''; and

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

''(2) PREVENTION OF COLA INVERSIONS.—The percentage of the first adjustment under this section in the retired pay of any person, as determined under subsection (c)(1), (c)(2), (d), or (e), may not exceed the percentage increase in retired pay determined under subsection (b)(2) that is effective on the same date as the effective date of such first adjustment.''.

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (d), by inserting ''or on or after August 1, 1986, if the member or former member did not elect to receive a bonus under section 322 of title 37'' after ''August 1, 1986,''; and

(2) in subsection (e), by inserting ''and elected to receive a bonus under section 322 of title 37'' after ''August 1, 1986,''.

SEC. 644. TECHNICAL REVISIONS TO SO-CALLED "FORGOTTEN WIDOWS" ANNUITY PROGRAM.

(a) CLARIFICATION OF ELIGIBILITY.—Subsection (a)(1) of section 644 of the National Defense Authorization Act for Fiscal Year 1998

(Public Law 105–85; 10 U.S.C. 1448 note) is amended—

(1) in subparagraph (A), by inserting after ''(A)'' the following: ''became entitled to retired or retainer pay before September 21, 1972,''; and

(2) in subparagraph (B), by striking ''was a member of a reserve component of the Armed Forces'' and inserting ''died''.

(b) CLARIFICATION OF INTERACTION WITH OTHER BENEFITS.—(1) Subsection (a)(2) of such section is amended by striking ''and who'' and all that follows through ''note)''.

(2) Subsection (b)(2) of such section is amended to read as follows:

''(2) The amount of an annuity to which a surviving spouse is entitled under this section for any period shall be reduced (but not below zero) by any amount paid to that surviving spouse for the same period under any of the following provisions of law:

''(A) Section 1311(a) of title 38, United States Code (relating to dependency and indemnity compensation payable by the Secretary of Veterans Affairs).

''(B) Chapter 73 of title 10, United States Code.

''(C) Section 4 of Public Law 92–425 (10 U.S.C. 1448 note).''.

(c) CLARIFICATION OF DEFINITION OF SURVIVING SPOUSE.—Subsection (d)(2) of such section is amended by striking ''the terms'' and all that follows through ''and (8)'' and inserting ''such term in paragraph (9)''.

(d) CLARIFICATION OF EFFECTIVE DATE OF BENEFITS.—Subsection (e) of such section is amended—

(1) in paragraph (1), by striking ''the month in which this Act is enacted'' and inserting ''November 1997'';

(2) in paragraph (2), by striking ''the first month that begins after the month in which this Act is enacted'' and inserting ''December 1997''; and

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

''(3) In the case of a person entitled to an annuity under this section who applies for the annuity after the date of the enactment of this paragraph, such annuity shall be paid only for months beginning after the date on which such application is submitted.''.

(e) SPECIFICATION IN LAW OF CURRENT BENEFIT AMOUNT.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking ''$165'' and inserting ''$185.58''; and

(2) in paragraph (3)—

(A) by striking ''the date of the enactment of this Act'' and inserting ''May 1, 2002,''; and

(B) by striking the last sentence.

Subtitle E—Reserve Component Montgomery GI Bill

SEC. 651. EXTENSION OF MONTGOMERY GI BILL-SELECTED RESERVE ELIGIBILITY PERIOD.

Section 16133(a) of title 10, United States Code, is amended by striking ''10-year'' and inserting ''14-year''.

Subtitle F—Other Matters

SEC. 661. ADDITION OF DEFINITION OF CONTINENTAL UNITED STATES IN TITLE 37.

(a) DEFINITION.—Section 101(1) of title 37, United States Code, is amended by adding at the end the following new sentence: ''The term 'continental United States' means the 48 contiguous States and the District of Columbia.''.

(b) CONFORMING AMENDMENTS.—Title 37, United States Code, is amended as follows:

(1) Section 314(a)(3) is amended by striking ''the 48 contiguous States and the District of Columbia'' and inserting ''the continental United States''.

(2) Section 403b(i) is amended by striking paragraph (6).

(3) Section 409 is amended by striking subsection (e).

(4) Section 411b(a) is amended by striking ''the 48 contiguous States and the District of Columbia'' both places it appears and inserting ''the continental United States''.

(5) Section 411d is amended by striking subsection (d).

(6) Section 430 is amended by striking subsection (f) and inserting the following new subsection (f):

''(f) DEFINITIONS.—In this section:

''(1) The term 'formal education' means the following:

''(A) A secondary education.

''(B) An undergraduate college education.

''(C) A graduate education pursued on a full-time basis at an institution of higher education.

''(D) Vocational education pursued on a full-time basis at a postsecondary vocational institution.

''(2) The term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(3) The term 'postsecondary vocational institution' has the meaning given that term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).''.

TITLE VII—HEALTH CARE MATTERS

Subtitle A—Health Care Program Improvements

SEC. 701. ELIMINATION OF REQUIREMENT FOR TRICARE PREAUTHORIZATION OF INPATIENT MENTAL HEALTH CARE FOR MEDICARE-ELIGIBLE BENEFICIARIES.

(a) ELIMINATION OF REQUIREMENT.—Section 1079(i) of title 10, United States Code, is amended in paragraph (3) by inserting ''or in the case of a person eligible for health care benefits under section 1086(d)(2) of this title for whom payment for such services is made under subsection 1086(d)(3) of this title'' after ''an emergency''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2004.

SEC. 702. EXPANSION OF TRICARE PRIME REMOTE FOR CERTAIN DEPENDENTS.

(a) EXPANSION OF ELIGIBILITY.—Section 1079(p) of title 10, United States Code, is amended in paragraph (1)—

(1) by inserting ''(A)'' after ''(1)'';

(2) by striking ''referred to in subsection (a) of a member of the uniformed services referred to in 1074(c)(3) of this title who are residing with the member'' and inserting ''described in subparagraph (B)''; and

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

''(B) A dependent referred to in subparagraph (A) is—

''(i) a dependent referred to in subsection (a) of a member of the uniformed services referred to in section 1074(c)(3) of this title, who is residing with the member; or

''(ii) a dependent referred to in subsection (a) of a member of the uniformed services with a permanent duty assignment for which the dependent is not authorized to accompany the member and one of the following circumstances exists:

''(I) The dependent continues to reside at the location of the former duty assignment of the member (or residence in the case of a member of a reserve component ordered to active duty for a period of more than 30 days), and that location is more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility that can adequately provide needed health care.

''(II) There is no reasonable expectation the member will return to the location of the former duty assignment, and the dependent moves to a location that is more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility that can adequately provide needed health care.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 2002.

SEC. 703. ENABLING DEPENDENTS OF CERTAIN MEMBERS WHO DIED WHILE ON ACTIVE DUTY TO ENROLL IN THE TRICARE DENTAL PROGRAM.

Section 1076a(k)(2) of title 10, United States Code, is amended by inserting ''(or, if not enrolled, if the member discontinued participation under subsection (f))'' after ''subsection (a)''.

SEC. 704. IMPROVEMENTS REGARDING THE DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.

(a) SOURCE OF FUNDS FOR MONTHLY ACCRUAL PAYMENTS INTO THE FUND.—Section 1116(c) of title 10, United States Code, is amended to read as follows:

''(c) Amounts paid into the Fund under subsection (a) shall be paid from funds available for the pay of members of the participating uniformed services under the jurisdiction of the respective administering Secretaries.''.

(b) MANDATORY PARTICIPATION OF OTHER UNIFORMED SERVICES.—Section 1111(c) of such title is amended—

(1) in the first sentence, by striking ''may enter into an agreement with any other administering Secretary'' and inserting ''shall enter into an agreement with each other administering Secretary''; and

(2) in the second sentence, by striking ''Any'' and inserting ''Each''.

SEC. 705. CERTIFICATION OF INSTITUTIONAL AND NON-INSTITUTIONAL PROVIDERS UNDER THE TRICARE PROGRAM.

(a) IN GENERAL.—Section 1079 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(q) For purposes of designating institutional and non-institutional health care providers authorized to provide care under this section, the Secretary of Defense shall prescribe regulations (in consultation with the other administering Secretaries) that will, to the extent practicable and subject to the limitations of subsection (a), so designate any provider authorized to provide care under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2003.

SEC. 706. TECHNICAL CORRECTION REGARDING TRANSITIONAL HEALTH CARE.

Effective as of December 28, 2001, section 1145(a)(1) of title 10, United States Code, is amended by inserting ''(and the dependents of the member)'' after ''separated from active duty as described in paragraph (2)''. The amendment made by the preceding sentence shall be deemed to have been enacted as part of section 736 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107).

Subtitle B—Reports

SEC. 711. COMPTROLLER GENERAL REPORT ON TRICARE CLAIMS PROCESSING.

Not later than March 31, 2003, the Comptroller General shall submit to Congress an evaluation of the continuing impediments to a cost effective and provider- and beneficiary-friendly system for claims processing under the TRICARE program. The evaluation shall include a discussion of the following:

(1) The extent of progress implementing improvements in claims processing, particularly regarding the application of best industry practices.

(2) The extent of progress in simplifying claims processing procedures, including the elimination of, or reduction in, the complexity of the Health Care Service Record requirements.

(3) The suitability of a medicare-compatible claims processing system with the data requirements necessary to administer the TRICARE program and related information systems.

(4) The extent to which the claims processing system for the TRICARE program impedes provider participation and beneficiary access.

(5) Recommendations for improving the claims processing system that will reduce processing and administration costs, create greater competition, and improve fraud-prevention activities.

SEC. 712. COMPTROLLER GENERAL REPORT ON PROVISION OF CARE UNDER THE TRICARE PROGRAM.

Not later than March 31, 2003, the Comptroller General shall submit to Congress an evaluation of the nature of, reasons for, extent of, and trends regarding network provider instability under the TRICARE program, and the effectiveness of efforts by the Department of Defense and managed care support contractors to measure and mitigate such instability. The evaluation shall include a discussion of the following:

(1) The adequacy of measurement tools of TRICARE network instability and their use by the Department of Defense and managed care support contractors to assess network adequacy and stability.

(2) Recommendations for improvements needed in measurement tools or their application.

(3) The relationship of reimbursement rates and administration requirements (including preauthorization requirements) to TRICARE network instability.

(4) The extent of problems under the TRICARE program and likely future trends with and without intervention using existing authority.

(5) Use of existing authority by the Department of Defense and TRICARE managed care support contractors to apply higher reimbursement rates in specific geographic areas.

(6) Recommendations for specific fiscally prudent measures that could mitigate negative trends or improve provider and network stability.

SEC. 713. REPEAL OF REPORT REQUIREMENT.

Notwithstanding subsection (f)(2) of section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A–179), the amendment made by subsection (e) of such section shall not take effect and the paragraph amended by such subsection is repealed.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

SEC. 801. PLAN FOR ACQUISITION MANAGEMENT PROFESSIONAL EXCHANGE PILOT PROGRAM.

(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a plan for a pilot program under which—

(A) an individual in the field of acquisition management employed by the Department of Defense may be temporarily assigned to work in a private sector organization; and

(B) an individual in such field employed by a private sector organization may be temporarily assigned to work in the Department of Defense.

(2) In developing the plan under paragraph (1), the Secretary shall address the following:

(A) The benefits of undertaking such a program.

(B) The appropriate length of assignments under the program.

(C) Whether an individual assigned under the program should be compensated by the organization to which the individual is assigned, or the organization from which the individual is assigned.

(D) The ethics guidelines that should be applied to the program and, if necessary, waivers of ethics laws that would be needed in order to make the program effective and attractive to both Government and private sector employees.

(E) An assessment of how compensation of individuals suffering employment-related injuries under the program should be addressed.

(b) SUBMISSION TO CONGRESS.—Not later than February 1, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives the plan required under subsection (a).

SEC. 802. EVALUATION OF TRAINING, KNOWLEDGE, AND RESOURCES REGARDING NEGOTIATION OF INTELLECTUAL PROPERTY ARRANGEMENTS.

(a) AVAILABILITY OF TRAINING, KNOWLEDGE, AND RESOURCES.—The Secretary of Defense shall evaluate the training, knowledge, and resources needed by the Department of Defense in order to effectively negotiate intellectual property rights using the principles of the Defense Federal Acquisition Regulation Supplement and determine whether the Department of Defense currently has in place the training, knowledge, and resources available to meet those Departmental needs.

(b) REPORT.—Not later than February 1, 2003, the Secretary of Defense shall submit to Congress a report describing—

(1) the results of the evaluation performed under subsection (a);

(2) to the extent the Department does not have adequate training, knowledge, and resources available, actions to be taken to improve training and knowledge and to make resources available to meet the Department's needs; and

(3) the number of Department of Defense legal personnel trained in negotiating intellectual property arrangements.

SEC. 803. LIMITATION PERIOD FOR TASK AND DELIVERY ORDER CONTRACTS.

Chapter 137 of title 10, United States Code, is amended—

(1) in section 2304a—

(A) in subsection (e)—

(i) by inserting ''(1)'' before ''A task''; and

(ii) by adding at the end the following new paragraphs:

''(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)).''; and

(B) by striking subsection (f) and inserting the following:

''(f) LIMITATION ON CONTRACT PERIOD.—The base period of a task order contract or delivery order contract entered into under this section may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract. The contract may be extended for an additional 5 years (for a total contract period of not more than 10 years) through modifications, options, or otherwise.''; and

(2) in section 2304b—

(A) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—A task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services shall be subject to the requirements of this section, sections 2304a and 2304c of this title, and other applicable provisions of law.'';

(B) by striking subsections (b), (f), and (g) and redesignating subsections (c), (d), (e), (h), and (i) as subsections (b) through (f);

(C) by amending subsection (c) (as redesignated by subparagraph (B)) to read as follows:

''(c) REQUIRED CONTENT OF CONTRACT.—A task order contract described in subsection (a) shall contain the same information that is required by section 2304a(b) to be included in the solicitation of offers for that contract.''; and

(D) in subsection (d) (as redesignated by subparagraph (B))—

(i) in paragraph (1), by striking ''under this section'' and inserting ''described in subsection (a)''; and

(ii) in paragraph (2), by striking ''under this section''.

SEC. 804. ONE-YEAR EXTENSION OF PROGRAM APPLYING SIMPLIFIED PROCEDURES TO CERTAIN COMMERCIAL ITEMS; REPORT.

(a) EXTENSION OF PILOT PROGRAM.—Section 4202 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) is amended in subsection (e) by striking ''January 1, 2003'' and inserting ''January 1, 2004''.

(b) REPORT REQUIRED.—Not later than January 15, 2003, the Secretary of Defense shall submit to Congress a report on whether the authority to issue solicitations for purchases of commercial items in excess of the simplified acquisition threshold pursuant to the special simplified procedures authorized by section 2304(g)(1) of title 10, United States Code, section 303(g)(1) of the Federal Property and Administrative Services Act of 1949, and section 31(a) of the Office of Federal Procurement Policy Act, should be made permanent.

SEC. 805. AUTHORITY TO MAKE INFLATION ADJUSTMENTS TO SIMPLIFIED ACQUISITION THRESHOLD.

Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended by inserting '', except that such amount may be adjusted by the Administrator every five years to the amount equal to $100,000 in constant fiscal year 2002 dollars (rounded to the nearest $10,000)'' before the period at the end.

SEC. 806. IMPROVEMENT OF PERSONNEL MANAGEMENT POLICIES AND PROCEDURES APPLICABLE TO THE CIVILIAN ACQUISITION WORKFORCE.

(a) PLAN REQUIRED.—The Secretary of Defense shall develop a plan for improving the personnel management policies and procedures applicable to the Department of Defense civilian acquisition workforce based on the results of the demonstration project described in section 4308 of the Clinger–Cohen Act of 1996 (division D of Public Law 104–106; 10 U.S.C. 1701 note).

(b) SUBMISSION TO CONGRESS.—Not later than February 15, 2003, the Secretary shall submit to Congress the plan required under subsection (a) and a report including any recommendations for legislative action necessary to implement the plan.

SEC. 807. MODIFICATION OF SCOPE OF BALL AND ROLLER BEARINGS COVERED FOR PURPOSES OF PROCUREMENT LIMITATION.

Section 2534(a)(5) of title 10, United States Code is amended—

(1) by striking ''225.71'' and inserting ''225.70'';

(2) by striking ''October 23, 1992'' and inserting ''April 27, 2002''; and

(3) by adding at the end the following: ''In this section the term 'ball bearings and roller bearings' includes unconventional or hybrid ball and roller bearings and cam follower bearings, ball screws, and other derivatives of ball and roller bearings.''.

SEC. 808. RAPID ACQUISITION AND DEPLOYMENT PROCEDURES.

(a) REQUIREMENT TO ESTABLISH PROCEDURES.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2396 the following new section:

''§2397. Rapid acquisition and deployment procedures

''(a) ESTABLISHMENT.—The Secretary of Defense shall establish tailored rapid acquisition and deployment procedures for items urgently needed to react to an enemy threat or to respond to significant and urgent safety situations.

''(b) PROCEDURES.—The procedures established under subsection (a) shall include the following:

''(1) A process for streamlined communications between the Chairman of the Joint Chiefs of Staff, the acquisition community, and the testing community.

''(2) A process for expedited technical, programmatic, and financial decisions.

''(3) An expedited procurement and contracting process.

''(c) SPECIFIC STEPS TO BE INCLUDED.—The procedures established under subsection (a) shall provide for the following:

''(1) The commander of a unified combatant command may notify the Chairman of the Joint Chiefs of Staff of the need for an item described in subsection (a) that is currently under development.

''(2) The Chairman may request the Secretary of Defense to use rapid acquisition and deployment procedures with respect to the item.

''(3) The Secretary of Defense shall decide whether to use such procedures with respect to the item and shall notify the Secretary of the appropriate military department of the decision.

''(4) If the Secretary of Defense decides to use such procedures with respect to the item, the Secretary of the military department shall prepare a funding strategy for the rapid acquisition of the item and shall conduct a demonstration of the performance of the item.

''(5) The Director of Operational Test and Evaluation shall immediately evaluate the existing capability of the item (but under such evaluation shall not assess the capability of the item as regards to the function the item was originally intended to perform).

''(6) The Chairman of the Joint Chiefs of Staff shall review the evaluation of the Director of Operational Test and Evaluation and report to the Secretary of Defense regarding whether the capabilities of the tested item are able to meet the urgent need for the item.

''(7) The Secretary of Defense shall evaluate the information regarding funding and rapid acquisition prepared pursuant to paragraph (4) and approve or disapprove of the acquisition of the item using the procedures established pursuant to subsection (a).

''(d) LIMITATION.—The quantity of items of a system procured using the procedures established under this section may not exceed the number established for low-rate initial production for the system, and any such items shall be counted for purposes of the number of items of the system that may be procured through low-rate initial production.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2396 the following new item:

''2397. Rapid acquisition and deployment procedures.''.

SEC. 809. QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM.

(a) ESTABLISHMENT.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2402 the following new section:

''§2403. Quick-reaction special projects acquisition team

''The Secretary of Defense shall establish a quick-reaction special projects acquisition team, the purpose of which shall be to advise the Secretary on actions that can be taken to expedite the procurement of urgently needed systems. The team shall address problems with the intention of creating expeditious solutions relating to—

''(1) industrial-base issues such as the limited availability of suppliers;

''(2) compliance with acquisition regulations and lengthy procedures;

''(3) compliance with environmental requirements;

''(4) compliance with requirements regarding small-business concerns; and

''(5) compliance with requirements regarding the purchase of products made in the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2402 the following new item:

''2403. Quick-reaction special projects acquisition team.''.

SEC. 810. REPORT ON DEVELOPMENT OF ANTI-CYBERTERRORISM TECHNOLOGY.

Not later than February 1, 2003, the Secretary of Defense shall submit to Congress a report on—

(1) efforts by the Department of Defense to enter into contracts with private entities to develop anticyberterrorism technology; and

(2) whether such efforts should be increased.

SEC. 811. CONTRACTING WITH FEDERAL PRISON INDUSTRIES.

(a) ASSURING BEST VALUE FOR NATIONAL DEFENSE AND HOMELAND SECURITY.—(1) The Department of Defense or one of the military departments may acquire a product or service from Federal Prison Industries, Inc. only if such acquisition is made through a procurement contract awarded and administered in accordance with chapter 137 of title 10, United States Code, the Federal Acquisition Regulation, and the Department of Defense supplements to such regulation. If a contract is to be awarded to Federal Prison Industries, Inc. by the Department of Defense through other than competitive procedures, authority for such award shall be based upon statutory authority other than chapter 307 of title 18, United States Code.

(2) The Secretary of Defense shall assure that—

(A) no purchase of a product or a service is made by the Department of Defense from Federal Prison Industries, Inc. unless the contracting officer determines that—

(i) the product or service can be timely furnished and will meet the performance needs of the activity that requires the product or service; and

(ii) the price to be paid does not exceed a fair market price determined by competition or a fair and reasonable price determined by price analysis or cost analysis; and

(B) Federal Prison Industries, Inc. performs its contractual obligations to the same extent as any other contractor for the Department of Defense.

(b) PERFORMANCE AS A SUBCONTRACTOR.—(1) The use of Federal Prison Industries, Inc. as a subcontractor or supplier shall be a wholly voluntary business decision by a Department of Defense prime contractor or subcontractor, subject to any prior approval of subcontractors or suppliers by the contracting officer which may be imposed by regulation or by the contract.

(2) A defense contractor (or subcontractor at any tier) using Federal Prison Industries, Inc. as a subcontractor or supplier in furnishing a commercial product pursuant to a contract shall implement appropriate management procedures to prevent introducing an inmate-produced product or inmate-furnished services into the commercial market.

(3) Except as authorized under the Federal Acquisition Regulation, the use of Federal Prison Industries, Inc. as a subcontractor or supplier of products or provider of services shall not be imposed upon prospective or actual defense prime contractors or subcontractors at any tier by means of—

(A) a contract solicitation provision requiring a contractor to offer to make use of Federal Prison Industries, Inc. its products or services;

(B) specifications requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries, Inc. in the performance of the contract;

(C) any contract modification directing the use of Federal Prison Industries, Inc. its products or services; or

(D) any other means.

(c) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The Secretary of Defense shall assure that Federal Prison Industries, Inc. is not permitted to provide services as a contractor or subcontractor at any tier, if an inmate worker has access to—

(1) data that is classified or will become classified after being merged with other data;

(2) geographic data regarding the location of surface and subsurface infrastructure providing communications, water and electrical power distribution, pipelines for the distribution of natural gas, bulk petroleum products and other commodities, and other utilities; or

(3) personal or financial information about individual private citizens, including information relating to such person's real property, however described, without giving prior notice to such persons or class of persons to the greatest extent practicable.

(d) REGULATORY IMPLEMENTATION.—

(1) PROPOSED REGULATIONS.—Proposed revisions to the Department of Defense Supplement to the Federal Acquisition Regulation to implement this section shall be published not later than 90 days after the date of enactment of this Act and provide not less than 60 days for public comment.

(2) FINAL REGULATIONS.—Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. CHANGE IN TITLE OF SECRETARY OF THE NAVY TO SECRETARY OF THE NAVY AND MARINE CORPS.

(a) CHANGE IN TITLE.—The position of the Secretary of the Navy is hereby redesignated as the Secretary of the Navy and Marine Corps.

(b) REFERENCES.—Any reference to the Secretary of the Navy in any law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the Secretary of the Navy and Marine Corps.

SEC. 902. REPORT ON IMPLEMENTATION OF UNITED STATES NORTHERN COMMAND.

Not later than September 1, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report providing an implementation plan for the United States Northern Command. The report shall address the following:

(1) The required budget for standing-up and maintaining that command.

(2) The location of the headquarters of that command and alternatives considered for that location, together with the criteria used in selection of that location.

(3) The required manning levels for the command, the effect that command will have on current Department of Defense personnel resources, and the other commands from which personnel will be transferred to provide personnel for that command.

(4) The chain of command within that command to the component command level and a review of permanently assigned or tasked organizations and units.

(5) The relationship of that command to the Office of Homeland Security and the Homeland Security Council, to other Federal departments and agencies, and to State and local law enforcement agencies.

(6) The relationship of that command with the National Guard Bureau, individual State National Guard Headquarters, and civil first responders to ensure continuity of operational plans.

(7) The legal implications of military forces in their Federal capacity operating on United States territory.

(8) The status of Department of Defense consultations—

(A) with Canada regarding Canada's role in, and any expansion of mission for, the North American Air Defense Command; and

(B) with Mexico regarding Mexico's role in the United States Northern Command.

(9) The status of Department of Defense consultations with NATO member nations on efforts to transfer the Supreme Allied Command for the Atlantic from dual assignment with the position of commander of the United States Joint Forces Command.

(10) The revised mission, budget, and personnel resources required for the United States Joint Forces Command.

SEC. 903. NATIONAL DEFENSE MISSION OF COAST GUARD TO BE INCLUDED IN FUTURE QUADRENNIAL DEFENSE REVIEWS.

Section 118(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

''(14) The national defense mission of the Coast Guard.''.

SEC. 904. CHANGE IN YEAR FOR SUBMISSION OF QUADRENNIAL DEFENSE REVIEW.

Section 118(a) of title 10, United States Code, is amended by striking ''during a year'' and inserting ''during the second year''.

SEC. 905. REPORT ON EFFECT OF OPERATIONS OTHER THAN WAR ON COMBAT READINESS OF THE ARMED FORCES.

(a) REPORT REQUIRED.—Not later than February 28, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the effect on the combat readiness of the Armed Forces of operations other than war in which the Armed Forces are participating as of the date of the enactment of this Act (hereinafter in this section referred to as ''current operations other than war''). Such report shall address any such effect on combat readiness for the Armed Forces as a whole and separately for the active components and the reserve components.

(b) OPERATIONS OTHER THAN WAR.—For purposes of this section, the term ''operations other than war'' includes the followng:

(1) Humanitarian operations.

(2) Counter-drug operations.

(3) Peace operations.

(4) Nation assistance.

(c) MATTERS TO BE ADDRESSED.—The report shall, at a minimum, address the following (shown both for the Armed Forces as a whole and separately for the active components and the reserve components):

(1) With respect to each current operation other than war, the number of members of the Armed Forces who are—

(A) directly participating in the operation;

(B) supporting the operation;

(C) preparing to participate or support an upcoming rotation to the operation; or

(D) recovering and retraining following participation in the operation.

(2) The cost to the Department of Defense in time, funds, resources, personnel, and equipment to prepare for, conduct, and recover and retrain from each such operation.

(3) The effect of participating in such operations on performance, retention, and readiness of individual members of the Armed Forces.

(4) The effect of such operations on the readiness of forces and units participating, preparing to participate, and returning from participation in such operations.

(5) The effect that such operations have on forces and units that do not, have not, and will not participate in them.

(6) The contribution to United States national security and to regional stability of participation by the United States in such operations, to be assessed after receiving the views of the commanders of the regional unified combatant commands.

(d) CLASSIFICATION OF REPORT.—The report may be provided in classified or unclassified form as necessary.

SEC. 906. CONFORMING AMENDMENT TO REFLECT DISESTABLISHMENT OF DEPARTMENT OF DEFENSE CONSEQUENCE MANAGEMENT PROGRAM INTEGRATION OFFICE.

Section 12310(c)(3) of title 10, United States Code, is amended by striking ''only—'' and all that follows through ''(B) while assigned'' and inserting ''only while assigned''.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2003 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.

(a) DOD AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2002 in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to the following:

(1) Chapter 3 of the Emergency Supplemental Act, 2002 (division B of Public Law 107–117; 115 Stat. 2299).

(2) Any Act enacted after May 1, 2002, making supplemental appropriations for fiscal year 2002 for the military functions of the Department of Defense.

(b) NNSA AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Energy for fiscal year 2002 in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to the following:

(1) Chapter 5 of the Emergency Supplemental Act, 2002 (division B of Public Law 107–117; 115 Stat. 2307).

(2) Any Act enacted after May 1, 2002, making supplemental appropriations for fiscal year 2002 for the atomic energy defense activities of the Department of Energy.

(c) LIMITATION ON TRANSFERS PENDING SUBMISSION OF REPORT.—Any amount provided for the Department of Defense for fiscal year 2002 through a so-called 'transfer account'', including the Defense Emergency Response Fund or any other similar account, may be transferred to another account for obligation only after the Secretary of Defense submits to the congressional defense committees a report stating, for each such transfer, the amount of the transfer, the appropriation account to which the transfer is to be made, and the specific purpose for which the transferred funds will be used.

(d) EMERGENCY DESIGNATION REQUIREMENT.—(1) In the case of a pending contingent emergency supplemental appropriation for the military functions of the Department of Defense or the atomic energy defense activities of the Department of Energy, an adjustment may be made under subsection (a) or (b) in the amount of an authorization of appropriations by reason of that supplemental appropriation only if, and to the extent that, the President transmits to Congress an official budget request for that appropriation that designates the entire amount requested as an emergency requirement.

(2) For purposes of this subsection, the term ''contingent emergency supplemental appropriation'' means a supplemental appropriation that—

(A) is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(B) by law is available only to the extent that the President transmits to the Congress an official budget request for that appropriation that includes designation of the entire amount of the request as an emergency requirement.

SEC. 1003. UNIFORM STANDARDS THROUGHOUT DEPARTMENT OF DEFENSE FOR EXPOSURE OF PERSONNEL TO PECUNIARY LIABILITY FOR LOSS OF GOVERNMENT PROPERTY.

(a) EXTENSION OF ARMY AND AIR FORCE REPORT-OF-SURVEY PROCEDURES TO NAVY AND MARINE CORPS AND ALL DOD CIVILIAN EMPLOYEES.—(1) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 2787. Reports of survey

''(a) REGULATIONS.—Under such regulations as the Secretary of Defense may prescribe, any officer of the Army, Navy, Air Force, or Marine Corps or any civilian employee of the Department of Defense designated by the Secretary may act upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of the United States under the control of the Department of Defense.

''(b) FINALITY OF ACTION.—Action taken under subsection (a) is final, except that action holding a person pecuniarily liable for loss, spoilage, destruction, or damage is not final until approved by the Secretary.''.

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

''2787. Reports of survey.''.

(b) EXTENSION TO MEMBERS OF THE NAVY AND MARINE CORPS OF PAY DEDUCTION AUTHORITY PERTAINING TO DAMAGE OR REPAIR OF ARMS AND EQUIPMENT .—Section 1007(e) of title 37, United States Code, is amended by striking ''Army or the Air Force'' and inserting ''Army, Navy, Air Force, or Marine Corps''.

(c) REPEAL OF SUPERCEDED PROVISIONS.—(1) Sections 4835 and 9835 of title 10, United States Code, are repealed.

(2)(A) The table of sections at the beginning of chapter 453 of such title is amended by striking the item relating to section 4835.

(B) The table of sections at the beginning of chapter 953 of such title is amended by striking the item relating to section 9835.

SEC. 1004. ACCOUNTABLE OFFICIALS IN THE DEPARTMENT OF DEFENSE.

(a) ACCOUNTABLE OFFICIALS WITHIN THE DEPARTMENT OF DEFENSE.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2773 the following new section:

"§ 2773a. Departmental accountable officials

''(a) DESIGNATION.—(1) The Secretary of Defense may designate as a 'departmental accountable official' any civilian employee of the Department of Defense or member of the armed forces under the Secretary's jurisdiction who is described in paragraph (2). Any such designation shall be in writing.

''(2) An employee or member of the armed forces described in this paragraph is an employee or member who is responsible in the performance of the employee's or member's duties for providing to a certifying official of the Department of Defense information, data, or services that are directly relied upon by the certifying official in the certification of vouchers for payment.

''(b) PECUNIARY LIABILITY.—(1) The Secretary of Defense may impose pecuniary liability on a departmental accountable official to the extent that an illegal, improper, or incorrect payment results from the information, data, or services that that official provides to a certifying official and upon which the certifying official directly relies in certifying the voucher supporting that payment.

''(2) The pecuniary liability of a departmental accountable official under this subsection for such an illegal, improper, or incorrect payment is joint and several with that of any other officials who are pecuniarily liable for such payment.

''(c) RELIEF FROM LIABILITY.—The Secretary of Defense shall relieve a departmental accountable official from liability under subsection (b) if the Secretary determines that the illegal, improper, or incorrect payment was not the result of fault or negligence by that official.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2773 the following new item:

''2773a. Departmental accountable officials.''.

SEC. 1005. IMPROVEMENTS IN PURCHASE CARD MANAGEMENT.

(a) IN GENERAL.—Section 2784 of title 10, United States Code, is amended to read as follows:

"§ 2784. Management of purchase cards

''(a) MANAGEMENT OF PURCHASE CARDS.—The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall prescribe regulations governing the use and control of all purchase cards and convenience checks that are issued to Department of Defense personnel for official use. Those regulations shall be consistent with regulations that apply Government-wide regarding use of purchase cards by Government personnel for official purposes.

''(b) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—Regulations under subsection (a) shall include safeguards and internal controls to ensure the following:

''(1) That there is a record in the Department of Defense of each holder of a purchase card issued by the Department of Defense for official use, annotated with the limitations on amounts that are applicable to the use of each such card by that purchase card holder.

''(2) That the holder of a purchase card and each official with authority to authorize expenditures charged to the purchase card are responsible for—

''(A) reconciling the charges appearing on each statement of account for that purchase card with receipts and other supporting documentation; and

''(B) forwarding that statement after being so reconciled to the designated disbursing office in a timely manner.

''(3) That any disputed purchase card charge, and any discrepancy between a receipt and other supporting documentation and the purchase card statement of account, is resolved in the manner prescribed in the applicable Government-wide purchase card contract entered into by the Administrator of General Services.

''(4) That payments on purchase card accounts are made promptly within prescribed deadlines to avoid interest penalties.

''(5) That rebates and refunds based on prompt payment on purchase card accounts are properly recorded.

''(6) That records of each purchase card transaction (including records on associated contracts, reports, accounts, and invoices) are retained in accordance with standard Government policies on the disposition of records.

''(7) That an annual review is performed of the use of purchase cards issued by the Department of Defense to determine whether each purchase card holder has a need for the purchase card.

''(8) That the Inspectors General of the Department of Defense and the military services perform periodic audits with respect to the use of purchase cards issued by the Department of Defense to ensure that such use is in compliance with regulations.

''(9) That appropriate annual training is provided to each purchase card holder and each official with responsibility for overseeing the use of purchase cards issued by the Department of Defense.

''(c) PENALTIES FOR VIOLATIONS.—The Secretary shall provide in the regulations prescribed under subsection (a)—

''(1) that procedures are implemented providing for appropriate punishment of employees of the Department of Defense for violations of such regulations and for negligence, misuse, abuse, or fraud with respect to a purchase card, including dismissal in appropriate cases; and

''(2) that a violation of such regulations by a person subject to chapter 47 of this title (the Uniform Code of Military Justice) is punishable as a violation of section 892 of this title (article 92 of the Uniform Code of Military Justice).''.

(b) CLERICAL AMENDMENT.—The item relating to section 2784 in the table of sections at the beginning of chapter 165 of such title is amended to read as follows:

''2784. Management of purchase cards.''.

SEC. 1006. AUTHORITY TO TRANSFER FUNDS WITHIN A MAJOR ACQUISITION PROGRAM FROM PROCUREMENT TO RDT&E.

(a) PROGRAM FLEXIBILITY.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2214 the following new section:

"§ 2214a. Transfer of funds: transfers from procurement accounts to research and development accounts for major acquisition programs

''(a) TRANSFER AUTHORITY WITHIN MAJOR PROGRAMS.—Subject to subsection (b), the Secretary of Defense may transfer amounts provided in an appropriation Act for procurement for a covered acquisition program to amounts provided in the same appropriation Act for research, development, test, and evaluation for that program.

''(b) CONGRESSIONAL NOTICE-AND-WAIT.—A transfer may be made under this section only after—

''(1) the Secretary submits to the congressional defense committees notice in writing of the Secretary's intent to make such transfer, together with the Secretary's justification for the transfer; and

''(2) a period of 30 days has elapsed following the date of such notification.

''(c) LIMITATIONS.—From amounts appropriated for the Department of Defense for any fiscal year for procurement—

''(1) the total amount transferred under this section may not exceed $250,000,000; and

''(2) the total amount so transferred for any acquisition program may not exceed $20,000,000.

''(d) COVERED ACQUISITION PROGRAMS.—In this section, the term 'covered acquisition program' means an acquisition program of the Department of Defense that is—

''(A) a major defense acquisition program for purposes of chapter 144 of this title; or

''(B) any other acquisition program of the Department of Defense—

''(i) that is designated by the Secretary of Defense as a covered acquisition program for purposes of this section; or

''(ii) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $140,000,000 (based on fiscal year 2000 constant dollars) or an eventual total expenditure for procurement of more than $660,000,000 (based on fiscal year 2000 constant dollars.)

''(e) TRANSFER BACK OF UNUSED TRANSFERRED FUNDS.—If funds transferred under this section are not used for the purposes for which transferred, such funds shall be transferred back to the account from which transferred and shall be available for their original purpose.

''(f) ADDITIONAL AUTHORITY.—The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2214 the following new item:

''2214a. Transfer of funds: transfers from procurement accounts to research and development accounts for major acquisition programs.''.

(b) EFFECTIVE DATE.—Section 2214a of title 10, United States Code, as added by subsection (a), shall not apply with respect to funds appropriated before the date of the enactment of this Act.

SEC. 1007. DEVELOPMENT AND PROCUREMENT OF FINANCIAL AND NONFINANCIAL MANAGEMENT SYSTEMS.

(a) REPORT.—Not later than March 1, 2003, the Secretary of Defense shall submit to the congressional defense committees a report on the modernization of the Department of Defense's financial management systems and operations. The report shall include the following:

(1) The goals and objectives of the Financial Management Modernization Program.

(2) The acquisition strategy for that Program, including milestones, performance metrics, and financial and nonfinancial resource needs.

(3) A listing of all operational and developmental financial and nonfinancial management systems in use by the Department, the related costs to operate and maintain those systems during fiscal year 2002, and the estimated cost to operate and maintain those systems during fiscal year 2003.

(4) An estimate of the completion date of a transition plan that will identify which of the Department's operational and developmental financial management systems will not be part of the objective financial and nonfinancial management system and that provides the schedule for phase out of those legacy systems.

(b) LIMITATIONS.—(1) A contract described in subsection (c) may be entered into using funds made available to the Department of Defense for fiscal year 2003 only with the approval in advance in writing of the Under Secretary of Defense (Comptroller).

(2) Not more than 75 percent of the funds authorized to be appropriated in section 201(4) for research, development, test, and evaluation for the Department of Defense Financial Modernization Program (Program Element 65016D8Z) may be obligated until the report required by subsection (a) is received by the congressional defense committees.

(c) COVERED CONTRACTS.—Subsection (b)(1) applies to a contract for the procurement of any of the following:

(1) An enterprise architecture system.

(2) A finance or accounting system.

(3) A nonfinancial business and feeder system.

(4) An upgrade to any system specified in paragraphs (1) through (3).

(d) DEFINITIONS.—As used in this section:

(1) FINANCIAL MANAGEMENT SYSTEM AND OPERATIONS.—The term ''financial management system and operations'' means financial, financial related, and non-financial business operations and systems used for acquisition programs, transportation, travel, property, inventory, supply, medical, budget formulation, financial reporting, and accounting. Such term includes the automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operations and maintenance of system functions.

(2) FEEDER SYSTEMS.—The term ''feeder systems'' means financial portions of mixed systems.

(3) DEVELOPMENTAL SYSTEMS AND PROJECTS.—The term ''developmental systems and projects'' means any system that has not reached Milestone C, as defined in the Department of Defense 5000–series regulations.

Subtitle B—Reports

SEC. 1011. AFTER-ACTION REPORTS ON THE CONDUCT OF MILITARY OPERATIONS CONDUCTED AS PART OF OPERATION ENDURING FREEDOM.

(a) REPORT REQUIRED.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (c) two reports on the conduct of military operations conducted as part of Operation Enduring Freedom. The first report (which shall be an interim report) shall be submitted not later than June 15, 2003. The second report shall be submitted not later than 180 days after the date (as determined by the Secretary of Defense) of the cessation of hostilities undertaken as part of Operation Enduring Freedom.

(2) Each report shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander-in-chief of the United States Central Command, and the Director of Central Intelligence.

(3) Each report shall be submitted in both a classified form and an unclassified form.

(b) MATTERS TO BE INCLUDED.—Each report shall contain a discussion of accomplishments and shortcomings of the overall military operation. The report shall specifically include the following:

(1) A discussion of the command, control, coordination, and support relationship between United States Special Operations Forces and Central Intelligence Agency elements participating in Operation Enduring Freedom and any lessons learned from the joint conduct of operations by those forces and elements.

(2) Recommendations to improve operational readiness and effectiveness.

(c) CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a)(1) are the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1012. REPORT ON BIOLOGICAL WEAPONS DEFENSE AND COUNTER-PROLIFERATION.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report—

(1) describing programs and initiatives to halt, counter, and defend against the development, production, and proliferation of biological weapons agents, technology, and expertise to terrorist organizations and other States; and

(2) including a detailed list of the limitations and impediments to the biological weapons defense, nonproliferation, and counterproliferation efforts of the Department of Defense, and recommendations to remove such impediments and to make such efforts more effective.

(b) CLASSIFICATION.—The report may be submitted in unclassified or classified form as necessary.

SEC. 1013. REQUIREMENT THAT DEPARTMENT OF DEFENSE REPORTS TO CONGRESS BE ACCOMPANIED BY ELECTRONIC VERSION.

Section 480(a) of title 10, United States Code, is amended by striking ''shall, upon request'' and all that follows through ''(or each'' and inserting ''shall provide to Congress (or''.

SEC. 1014. STRATEGIC FORCE STRUCTURE PLAN FOR NUCLEAR WEAPONS AND DELIVERY SYSTEMS.

(a) PLAN REQUIRED.—The Secretary of Defense and the Secretary of Energy shall jointly prepare a plan for the United States strategic force structure for nuclear weapons and nuclear weapons delivery systems for the period of fiscal years from 2002 through 2012. The plan shall—

(1) delineate a baseline strategic force structure for such weapons and systems over such period consistent with the Nuclear Posture Review dated January 2002;

(2) define sufficient force structure, force modernization and life extension plans, infrastructure, and other elements of the defense program of the United States associated with such weapons and systems that would be required to execute successfully the full range of missions called for in the national defense strategy delineated in the Quadrennial Defense Review dated September 30, 2001, under section 118 of title 10, United States Code; and

(3) identify the budget plan that would be required to provide sufficient resources to execute successfully the full range of missions using such force structure called for in that national defense strategy.

(b) REPORT.—(1) The Secretary of Defense and the Secretary of Energy shall submit a report on the plan to the congressional defense committees. Except as provided in paragraph (2), the report shall be submitted not later than January 1, 2003.

(2) If before January 1, 2003, the President submits to Congress the President's certification that it is in the national security interest of the United States that such report be submitted on a later date (to be specified by the President in the certification), such report shall be submitted not later than such later date.

SEC. 1015. REPORT ON ESTABLISHMENT OF A JOINT NATIONAL TRAINING COMPLEX AND JOINT OPPOSING FORCES.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report that outlines a plan to develop and implement a joint national training complex. Such a complex may include multiple joint training sites and mobile training ranges and appropriate joint opposing forces and shall be capable of supporting field exercises and experimentation at the operational level of war across a broad spectrum of adversary capabilities.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An identification and description of the types of joint training and experimentation that would be conducted at such a joint national training complex, together with a description of how such training and experimentation would enhance accomplishment of the six critical operational goals for the Department of Defense specified at page 30 of the Quadrennial Defense Review Report of the Secretary of Defense issued on September 30, 2001.

(2) A discussion of how establishment of such a complex (including joint opposing forces) would promote innovation and transformation throughout the Department of Defense.

(3) A discussion of how results from training and experiments conducted at such a complex would be taken into consideration in the Department of Defense plans, programs, and budgeting process and by appropriate decision making bodies within the Department of Defense.

(4) A methodology, framework, and options for selecting sites for such a complex, including consideration of current training facilities that would accommodate requirements among all the Armed Forces.

(5) Options for development as part of such a complex of a joint urban warfare training center that could also be used for homeland defense and consequence management training for Federal, State, and local training.

(6) Cost estimates and resource requirements to establish and maintain such a complex, including estimates of costs and resource requirements for the use of contract personnel for the performance of management, operational, and logistics activities for such a complex .

(7) An explanation of the relationship between and among such a complex and the Department of Defense Office of Transformation, the Joint Staff, the United States Joint Forces Command, the United States Northern Command, and each element of the major commands within the separate Armed Forces with responsibility for experimentation and training.

(8) A discussion of how implementation of a joint opposing force would be established, including the feasibility of using qualified contractors for the function of establishing and maintaining joint opposing forces and the role of foreign forces.

(9) Submission of a time line to establish such a center and for such a center to achieve initial operational capability and full operational capability.

SEC. 1016. REPEAL OF VARIOUS REPORTS REQUIRED OF THE DEPARTMENT OF DEFENSE.

(a) PROVISIONS OF TITLE 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 230 is repealed.

(B) The table of sections at the beginning of chapter 9 is amended by striking the item relating to section 230.

(2) Section 526 is amended by striking subsection (c).

(3) Section 721(d) is amended—

(A) by striking paragraph (2); and

(B) by striking ''(1)'' before ''If an officer''.

(4) Section 986 is amended by striking subsection (e).

(5) Section 1095(g) is amended—

(A) by striking paragraph (2); and

(B) by striking ''(1)'' after ''(g)''.

(6) Section 1798 is amended by striking subsection (d).

(7) Section 1799 is amended by striking subsection (d).

(8) Section 2010 is amended by striking subsection (b).

(9) Section 2327(c)(1) is amended—

(A) in subparagraph (A), by striking ''after the date on which such head of an agency submits to Congress a report on the contract'' and inserting ''if in the best interests of the Government''; and

(B) by striking subparagraph (B).

(10) Section 2350f is amended by striking subsection (c).

(11) Section 2350k is amended by striking subsection (d).

(12) Section 2492 is amended by striking subsection (c).

(13) Section 2493 is amended by striking subsection (g).

(14) Section 2563(c)(2) is amended by striking ''and notifies Congress regarding the reasons for the waiver''.

(15) Section 2611 is amended by striking subsection (e).

(16) Sections 4357, 6975, and 9356 are each amended—

(A) by striking subsection (c); and

(B) in subsection (a), by striking ''Subject to subsection (c), the Secretary'' and inserting ''The Secretary''.

(17) Section 4416 is amended by striking subsection (f).

(18) Section 5721(f) is amended—

(A) by striking paragraph (2); and

(B) by striking ''(1)'' after the subsection heading.

(19) Section 12302 is amended—

(A) in subsection (b), by striking the last sentence; and

(B) by striking subsection (d).

(b) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.—Section 553(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2772; 10 U.S.C. 4331 note) is amended by striking the last sentence.

SEC. 1017. REPORT ON THE ROLE OF THE DEPARTMENT OF DEFENSE IN SUPPORTING HOMELAND SECURITY.

(a) REPORT REQUIRED.—Not later than December 31, 2002, the Secretary of Defense shall submit to the congressional defense committees a report on Department of Defense responsibilities, mission, and plans for military support of homeland security.

(b) CONTENT OF REPORT.—The report shall include, but not be limited to, a discussion of the following:

(1) Changes in organization regarding the roles, mission, and responsibilities carried out by the Department of Defense to support its homeland security mission and the reasons for those changes based upon the findings of the study and report required by section 1511 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1271).

(2) Changes in the roles, missions, and responsibilities of the Department of the Army, the Department of the Navy, and the Department of the Air Force with respect to homeland security and the reasons for such changes.

(3) Changes in the roles, missions, and responsibilities of unified commands with homeland security missions and the reasons for such changes.

(4) Changes in the roles, missions, and responsibilities of the United States Joint Forces Command and the United States Northern Command in expanded homeland security training and experimentation involving the Department of Defense and other Federal, State, and local entities, and the reasons for such changes.

(5) Changes in the roles, missions, and responsibilities of the Army National Guard and the Air National Guard in the homeland security mission of the Department of Defense, and the reasons for such changes.

(6) The status of the unconventional nuclear warfare defense test bed program established in response to title IX of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2289), including the plan and program for establishing such test beds.

(7) The plans and status of the Department of Defense homeland security biological defense program, including the plans and status of—

(A) the biological counter terrorism research program;

(B) the biological defense homeland security support program;

(C) pilot programs for establishing biological defense test beds on Department of Defense installations and in selected urban areas of the United States;

(D) programs for expanding the capacity of the Department of Defense to meet increased demand for vaccines against biological agents; and

(E) any plans to coordinate Department of Defense work in biological defense programs with other Federal, State, and local programs.

(8) Recommendations for legislative changes that may be required to execute the roles and missions set forth in Department of Defense homeland security plans.

SEC. 1018. REPORT ON EFFECTS OF NUCLEAR EARTH PENETRATOR WEAPONS AND OTHER WEAPONS.

(a) NAS STUDY.—The Secretary of Defense shall request the National Academy of Sciences to conduct a study and prepare a report on the anticipated short-term and long-term effects of the use of a nuclear earth penetrator weapon on the target area, including the effects on civilian populations in proximity to the target area and on United States military personnel performing operations and battle damage assessments in the target area, and the anticipated short-term and long-term effects on the civilian population in proximity to the target area if—

(1) a non-penetrating nuclear weapon is used to destroy hard or deeply-buried targets; or

(2) a conventional high-explosive weapon is used to destroy an adversary's weapons of mass destruction storage or production facilities, and radioactive, nuclear, biological, or chemical weapons materials, agents, or other contaminants are released or spread into populated areas.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress the report under subsection (a), together with any comments the Secretary may consider appropriate on the report. The report shall be submitted in unclassified form to the maximum extent possible, with a classified annex if needed.

SEC. 1019. REPORT ON EFFECTS OF NUCLEAR-TIPPED BALLISTIC MISSILE INTERCEPTORS AND NUCLEAR MISSILES NOT INTERCEPTED.

(a) NAS STUDY.—The Secretary of Defense shall request the National Academy of Sciences to conduct a study and prepare a report on the anticipated short-term and long-term effects of the use of a nuclear-tipped ballistic missile interceptor, including the effects on civilian populations and on United States military personnel in proximity to the target area, and the immediate, short-term, and long-term effects on the civilian population of a major city of the United States, and the Nation as a whole, if a ballistic missile carrying a nuclear weapon is not intercepted and detonates directly above a major city of the United States.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress the report under subsection (a), together with any comments the Secretary may consider appropriate on the report. The report shall be submitted in unclassified form to the maximum extent possible, with a classified annex if needed.

Subtitle C—Other Matters

SEC. 1021. SENSE OF CONGRESS ON MAINTENANCE OF A RELIABLE, FLEXIBLE, AND ROBUST STRATEGIC DETERRENT.

It is the sense of Congress that, consistent with the national defense strategy delineated in the Quadrennial Defense Review dated September 30, 2001 (as submitted under section 118 of title 10, United States Code), the Nuclear Posture Review dated January 2002, and the global strategic environment, the President should, to defend the Nation, deter aggressors and potential adversaries, assure friends and allies, defeat enemies, dissuade competitors, advance the foreign policy goals and vital interests of the United States, and generally ensure the national security of the United States, take the following actions:

(1) Maintain an operationally deployed strategic force of not less than 1,700 nuclear weapons for immediate and unexpected contingencies.

(2) Maintain a responsive force of non-deployed nuclear weapons for potential contingencies at readiness and numerical levels determined to be—

(A) essential to the execution of the Single Integrated Operational Plan; or

(B) necessary to maintain strategic flexibility and capability in accordance with the findings and conclusions of such Nuclear Posture Review.

(3) Develop advanced conventional weapons, and nuclear weapons, capable of destroying—

(A) hard and deeply buried targets; and

(B) enemy weapons of mass destruction and the development and production facilities of such enemy weapons.

(4) Develop a plan to achieve and maintain the capability to resume conducting underground tests of nuclear weapons within one year after a decision is made to resume conducting such tests, so as to have the means to maintain robust and adaptive strategic forces through a ready, responsive, and capable nuclear infrastructure, as prescribed in such Nuclear Posture Review.

(5) Develop a plan to revitalize the Nation's nuclear weapons industry and infrastructure so as to facilitate the development and production of safer, more reliable, and more effective nuclear weapons.

SEC. 1022. TIME FOR TRANSMITTAL OF ANNUAL DEFENSE AUTHORIZATION LEGISLATIVE PROPOSAL.

(a) IN GENERAL.—Chapter 2 of title 10, United States Code, is amended by inserting after section 113 the following new section:

''§ 113a. Transmission of annual defense authorization request

''(a) TIME FOR TRANSMITTAL.—The Secretary of Defense shall transmit to Congress the annual defense authorization request for a fiscal year during the first 30 days after the date on which the President transmits to Congress the budget for that fiscal year pursuant to section 1105 of title 31.

''(b) DEFENSE AUTHORIZATION REQUEST DEFINED.—In this section, the term 'defense authorization request', with respect to a fiscal year, means a legislative proposal submitted to Congress for the enactment of the following:

''(1) Authorizations of appropriations for that fiscal year, as required by section 114 of this title.

''(2) Personnel strengths for that fiscal year, as required by section 115 of this title.

''(3) Any other matter that is proposed by the Secretary of Defense to be enacted as part of the annual defense authorization bill for that fiscal year.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 113 the following new item:

''113a. Transmission of annual defense authorization request.''.

SEC. 1023. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 153 is amended by inserting ''(a) PLANNING; ADVICE; POLICY FORMULATION.—'' at the beginning of the text.

(2) Section 663(e)(2) is amended by striking ''Armed Forces Staff College'' and inserting ''Joint Forces Staff College''.

(3) Section 2399(a)(2) is amended—

(A) in the matter preceding subparagraph (A), by striking ''means—'' and inserting ''means a conventional weapons system that—''; and

(B) in subparagraph (A), by striking ''a conventional weapons system that''.

(4)(A) Section 2410h is transferred to the end of subchapter IV of chapter 87 and is redesignated as section 1747.

(B) The item relating to that section in the table of sections at the beginning of chapter 141 is transferred to the end of the table of sections at the beginning of subchapter IV of chapter 87 and is amended to reflect the redesignation made by subparagraph (A).

(5) Section 2677 is amended by striking subsection (c).

(6) Section 2680(e) is amended by striking ''the'' after ''the Committee on'' the first place it appears.

(7) Section 2815(b) is amended by striking ''for fiscal year 2003 and each fiscal year thereafter'' and inserting ''for any fiscal year''.

(8) Section 2828(b)(2) is amended by inserting ''time'' after ''from time to''.

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 302j(a) is amended by striking ''subsection (c)'' and inserting ''subsection (d)''.

(2) Section 324(b) is amended by striking ''(1)'' before ''The Secretary''.

(c) PUBLIC LAW 107–107.—Effective as of December 28, 2001, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) is amended as follows:

(1) Section 602(a)(2) (115 Stat. 1132) is amended by striking ''an'' in the first quoted matter.

(2) Section 1410(a)(3)(C) (115 Stat. 1266) by inserting ''both places it appears'' before ''and inserting''.

(3) Section 3007(d)(1)(C) (115 Stat. 1352) is amended by striking ''2905(b)(7)(B)(iv)'' and inserting ''2905(b)(7)(C)(iv)''.

(d) PUBLIC LAW 106–398.—Effective as of October 30, 2000, and as if included therein as enacted, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) is amended as follows:

(1) Section 577(b)(2) (114 Stat. 1654A–140) is amended by striking ''Federal'' in the quoted matter and inserting ''Department of Defense''.

(2) Section 612(c)(4)(B) (114 Stat. 1654A–150) is amended by striking the comma at the end of the first quoted matter.

(e) PUBLIC LAW 106–65.—The National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended as follows:

(1) Section 573(b) (10 U.S.C. 513 note) is amended by inserting a period at the end of paragraph (2).

(2) Section 1305(6) (22 U.S.C. 5952 note) is amended by striking the first period after ''facility''.

(f) TITLE 14, UNITED STATES CODE.—Section 516(c) of title 14, United States Code, is amended by striking ''his section'' and inserting ''this section''.

SEC. 1024. WAR RISK INSURANCE FOR VESSELS IN SUPPORT OF NATO-APPROVED OPERATIONS.

Section 1205 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1285) is amended by adding at the end the following:

''(c) INSURANCE OF VESSELS IN SUPPORT OF NATO-APPROVED OPERATIONS.—(1) Upon request made under subsection (b), the Secretary may provide insurance for a vessel, regardless of the country in which the vessel is registered and the citizenship of its owners, that is supporting a military operation approved by the North Atlantic Council, including a vessel that is not operating under contract with a department or agency of the United States.

''(2) If a vessel is insured under paragraph (1) in response to a request made pursuant to an international agreement providing for the sharing among nations of the risks involved in mutual or joint operations, the Secretary of Transportation, with the concurrence of the Secretary of State, may seek from another nation that is a party to such agreement a commitment to indemnify the United States for any amounts paid by the United States for claims against such insurance.

''(3) Amounts received by the United States as indemnity from a nation pursuant to paragraph (2) shall be deposited into the insurance fund created under section 1208.

''(4) Any obligation of a department or agency of the United States to indemnify the Secretary or the insurance fund for any claim against insurance provided under this subsection is extinguished to the extent of any indemnification received from a nation pursuant to paragraph (2) with respect to the claim.''.

SEC. 1025. CONVEYANCE, NAVY DRYDOCK, PORTLAND, OREGON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may sell Navy Drydock No. YFD-69, located in Portland, Oregon, to Portland Shipyard, LLC, which is the current user of the drydock.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the purchaser agree to retain the drydock on Swan Island in Portland, Oregon, until at least September 30, 2007.

(c) CONSIDERATION.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall pay to the Secretary an amount equal to the fair market value of the drydock at the time of the conveyance, as determined by the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1026. ADDITIONAL WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should—

(1) establish 23 additional teams designated as Weapons of Mass Destruction Civil Support Teams (for a total of 55 such teams); and

(2) ensure that of such 55 teams there is at least one team established for each State and territory.

(b) STATE AND TERRITORY DEFINED.—In this section, the term ''State and territory'' means the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

TITLE XI—CIVILIAN PERSONNEL MATTERS

SEC. 1101. ELIGIBILITY OF DEPARTMENT OF DEFENSE NONAPPROPRIATED FUND EMPLOYEES FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Section 9001(1) of title 5, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'';

(2) in subparagraph (C), by striking the comma at the end and inserting ''; and''; and

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

''(D) an employee of a nonappropriated fund instrumentality of the Department of Defense described in section 2105(c),''.

(b) DISCRETIONARY AUTHORITY.—Section 9002 of such title is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

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

''(b) DISCRETIONARY AUTHORITY REGARDING NONAPPROPRIATED FUND INSTRUMENTALITIES.—The Secretary of Defense may determine that a nonappropriated fund instrumentality of the Department of Defense is covered under this chapter or is covered under an alternative long-term care insurance program.''.

SEC. 1102. EXTENSION OF DEPARTMENT OF DEFENSE AUTHORITY TO MAKE LUMP-SUM SEVERANCE PAYMENTS.

(a) IN GENERAL.—Section 5595(i)(4) of title 5, United States Code, is amended by striking ''2003'' and inserting ''2006''.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the President shall submit to Congress a report including recommendations whether the authority under section 5595(i) of title 5, United States Code, should be made permanent or expanded to be made Governmentwide.

SEC. 1103. COMMON OCCUPATIONAL AND HEALTH STANDARDS FOR DIFFERENTIAL PAYMENTS AS A CONSEQUENCE OF EXPOSURE TO ASBESTOS.

(a) PREVAILING RATE SYSTEMS.—Section 5343(c)(4) of title 5, United States Code, is amended by inserting before the semicolon at the end the following: '', and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970''.

(b) GENERAL SCHEDULE PAY RATES.—Section 5545(d) of such title is amended by inserting before the period at the end of the first sentence the following: '', and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970''.

(c) APPLICABILITY.—Subject to any vested constitutional property rights, any administrative or judicial determination after the date of enactment of this Act concerning backpay for a differential established under sections 5343(c)(4) or 5545(d) of such title shall be based on occupational safety and health standards described in the amendments made by subsections (a) and (b).

SEC. 1104. CONTINUATION OF FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM ELIGIBILITY.

Paragraph (4)(B) of section 8905a(d) of title 5, United States Code, is amended—

(1) in clause (i), by striking ''2003'' and inserting ''2006''; and

(2) in clause (ii)—

(A) by striking ''2004'' and inserting ''2007''; and

(B) by striking ''2003'' and inserting ''2006''.

SEC. 1105. TRIENNIAL FULL-SCALE FEDERAL WAGE SYSTEM WAGE SURVEYS.

Section 5343(b) of title 5, United States Code, is amended—

(1) in the first sentence, by striking ''2 years'' and inserting ''3 years''; and

(2) in the second sentence, by striking the period at the end and inserting '', based on criteria developed by the Office.''.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SEC. 1201. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2003.—The total amount of the assistance for fiscal year 2003 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking ''2002'' and inserting ''2003''.

SEC. 1202. STRENGTHENING THE DEFENSE OF TAIWAN.

(a) IMPLEMENTATION OF TRAINING PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall implement a comprehensive plan to conduct joint operational training for, and exchanges of senior officers between, the Armed Forces of the United States and the military forces of Taiwan. Such plan shall include implementation of a wide range of programs, activities, exercises, and arrangements focused on threat analysis, military doctrine, force planning, logistical support, intelligence collection and analysis, operational tactics, techniques, and procedures, civil-military relations, and other subjects designed to improve the defensive capabilities of Taiwan and to enhance interoperability between the military forces of Taiwan and the Armed Forces of the United States.

(b) SUBMISSION TO CONGRESS.—At least 30 days before commencing implementation of the plan described in subsection (a), the Secretary of Defense shall submit the plan to Congress, in classified and unclassified form as necessary.

SEC. 1203. ADMINISTRATIVE SERVICES AND SUPPORT FOR FOREIGN LIAISON OFFICERS.

(a) AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2350m. Administrative services and support for foreign liaison officers

''(a) AUTHORITY TO PROVIDE SERVICES AND SUPPORT.—The Secretary of Defense may provide administrative services and support for foreign liaison officers performing duties while such officers temporarily are assigned to components or commands of the armed forces. Such administrative services and support may include base or installation operation support services, office space, utilities, copying services, fire and police protection, and computer support. The Secretary may provide such administrative services and support with or without reimbursement, as the Secretary considers appropriate.

''(b) EXPIRATION OF AUTHORITY.—The authority under this section shall expire on September 30, 2005.''.

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

''2350m. Administrative services and support for foreign liaison officers.''.

(c) REPORT.—Not later than March 1, 2005, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a report describing, as of the date of submission of the report—

(1) the number of foreign liaison officers for which support has been provided under section 2350m of title 10, United States Code (as added by subsection (a));

(2) the countries from which such foreign liaison officers are or were assigned;

(3) the type of support provided, the duration for which the support was provided, and the reasons the support was provided; and

(4) the costs to the Department of Defense and the United States of providing such support.

SEC. 1204. ADDITIONAL COUNTRIES COVERED BY LOAN GUARANTEE PROGRAM.

Section 2540 of title 10, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

''(5) A country that, as determined by the Secretary of Defense in consultation with the Secretary of State, assists in combatting drug trafficking organizations or foreign terrorist organizations.''; and

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

''(d) REPORT.—The Secretary of Defense and the Secretary of State, whenever the Secretaries consider such action to be warranted, shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives a report enumerating those countries to be added or removed under subsection (b).''.

SEC. 1205. LIMITATION ON FUNDING FOR JOINT DATA EXCHANGE CENTER IN MOSCOW.

(a) LIMITATION.—Not more than 50 percent of the funds made available to the Department of Defense for fiscal year 2003 for activities associated with the Joint Data Exchange Center in Moscow, Russia, may be obligated or expended for any such activity until—

(1) the United States and the Russian Federation enter into a cost-sharing agreement as described in subsection (d) of section 1231 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–329);

(2) the United States and the Russian Federation enter into an agreement or agreements exempting the United States and any United States person from Russian taxes, and from liability under Russian laws, with respect to activities associated with the Joint Data Exchange Center;

(3) the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of each agreement referred to in paragraphs (1) and (2); and

(4) a period of 30 days has expired after the date of the final submission under paragraph (3).

(b) JOINT DATA EXCHANGE CENTER.—For purposes of this section, the term ''Joint Data Exchange Center'' means the United States-Russian Federation joint center for the exchange of data to provide early warning of launches of ballistic missiles and for notification of such launches that is provided for in a joint United States-Russian Federation memorandum of agreement signed in Moscow in June 2000.

SEC. 1206. LIMITATION ON NUMBER OF MILITARY PERSONNEL IN COLOMBIA.

(a) LIMITATION.—None of the funds available to the Department of Defense may be used to support or maintain more than 500 members of the Armed Forces on duty in the Republic of Colombia at any time.

(b) EXCEPTIONS.—There shall be excluded from counting for the purposes of the limitation in subsection (a) the following:

(1) A member of the Armed Forces in the Republic of Colombia for the purpose of rescuing or retrieving United States military or civilian Government personnel, except that the period for which such a member may be so excluded may not exceed 30 days unless expressly authorized by law.

(2) A member of the Armed Forces assigned to the United States Embassy in Colombia as an attaché, as a member of the security assistance office, or as a member of the Marine Corps security contingent.

(3) A member of the Armed Forces in Colombia to participate in relief efforts in responding to a natural disaster.

(4) Nonoperational transient military personnel.

(5) A member of the Armed Forces making a port call from a military vessel in Colombia.

(c) WAIVER.—The Secretary of Defense may waive the limitation in subsection (a) if he determines that such waiver is in the national security interest.

(d) NOTIFICATION.—The Secretary shall notify the congressional defense committees not later 15 days after the date of the exercise of the waiver authority under subsection (c).

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2003 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term ''fiscal year 2003 Cooperative Threat Reduction funds'' means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $416,700,000 authorized to be appropriated to the Department of Defense for fiscal year 2003 in section 301(23) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $70,500,000.

(2) For strategic nuclear arms elimination in Ukraine, $6,500,000.

(3) For nuclear weapons transportation security in Russia, $19,700,000.

(4) For nuclear weapons storage security in Russia, $39,900,000.

(5) For activities designated as Other Assessments/Administrative Support, $14,700,000.

(6) For defense and military contacts, $18,900,000.

(7) For weapons of mass destruction infrastructure elimination activities in Kazakhstan, $9,000,000.

(8) For weapons of mass destruction infrastructure elimination activities in Ukraine, $8,800,000.

(9) For chemical weapons destruction in Russia, $50,000,000.

(10) For biological weapons facility dismantlement in the States of the former Soviet Union $11,500,000.

(11) For biological weapons facility security and safety in the States of the former Soviet Union, $34,800,000.–

(12) For biological weapons collaborative research in the States of the former Soviet Union, $8,700,000.

(13) For personnel reliability programs in Russia, $100,000.

(14) For weapons of mass destruction proliferation prevention in the States of the former Soviet Union, $40,000,000.

(b) ADDITIONAL FUNDS AUTHORIZED FOR CERTAIN PURPOSES.—Of the funds authorized to be appropriated to the Department of Defense for fiscal year 2003 in section 301(23) for Cooperative Threat Reduction programs, $83,600,000 may be obligated for any of the purposes specified in paragraphs (1) through (4) and (9) of subsection (a) in addition to the amounts specifically authorized in such paragraphs.

(c) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (14) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2003 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(d) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2003 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose (including amounts authorized under subsection (b)).

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for the purposes stated any of paragraphs (5) through (13) of subsection (a) in excess of 115 percent of the amount specifically authorized for such purposes.

SEC. 1303. PROHIBITION AGAINST USE OF FUNDS UNTIL SUBMISSION OF REPORTS.

No fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended until 30 days after the date of the submission of—

(1) the report required to be submitted in fiscal year 2002 under section 1308(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341); and

(2) the update for the multiyear plan required to be submitted for fiscal year 2001 under section 1205 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 22 U.S.C. 5952 note).

SEC. 1304. REPORT ON USE OF REVENUE GENERATED BY ACTIVITIES CARRIED OUT UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1308(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) is amended by inserting at the end the following new paragraph:

''(6) To the maximum extent practicable, a description of how revenue generated by activities carried out under Cooperative Threat Reduction programs in recipient States is being utilized, monitored, and accounted for.''.

SEC. 1305. PROHIBITION AGAINST USE OF FUNDS FOR SECOND WING OF FISSILE MATERIAL STORAGE FACILITY.

No funds authorized to be appropriated for Cooperative Threat Reduction programs for any fiscal year may be used for the design, planning, or construction of a second wing for a storage facility for Russian fissile material.

SEC. 1306. SENSE OF CONGRESS AND REPORT REQUIREMENT REGARDING RUSSIAN PROLIFERATION TO IRAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Russian proliferation to Iran constitutes a clear threat to the national security and vital interests of the United States and undermines the purpose and goals of Cooperative Threat Reduction programs;

(2) such proliferation consists primarily of nuclear and missile technology, goods, and know-how, and dual-use items that could contribute to the development of weapons of mass destruction and ballistic missiles;

(3) because of ongoing Russian assistance, the intelligence community estimates that Iran could attempt to launch an intercontinental ballistic missile by 2005, and could possess a nuclear weapon by 2010;

(4) Russian proliferation is providing Iran with the capability to strike United States military forces, interests, allies, and friends in the region with weapons-of-mass-destruction-tipped ballistic missiles;

(5) the issue of Russian proliferation to Iran has been raised by United States officials at the highest levels of the Russian Government;

(6) Iran has long been identified as a State sponsor of terrorism by the United States because of its support of foreign terrorist organizations, and the combination of terrorist organizations and weapons of mass destruction constitutes a grave threat to the national security of the United States;

(7) Russian proliferation to Iran raises serious questions regarding the intentions of the Russian Government, and its commitment to nonproliferation and improved relations with the United States;

(8) Russian proliferation to Iran could undermine Congressional support for Cooperative Threat Reduction programs; and

(9) the President must safeguard United States national security and demonstrate United States resolve and commitment to stopping the proliferation of weapons of mass destruction and ballistic missiles through clear, firm, and coherent policies and strategies that employ the full range of diplomatic and economic tools at his disposal, both positive and negative, to halt the serious and continuing problem of Russian proliferation.

(b) REPORT.—Not later than March 15 of 2003 through 2009, the President shall submit to Congress a report (in unclassified and classified form as necessary) describing in detail Russian proliferation of weapons of mass destruction and ballistic missile goods, technology, and know-how, and of dual-use items that may contribute to the development of weapons of mass destruction and ballistic missiles, to Iran and to other countries during the year preceding the year in which the report is submitted. The report shall include—

(1) a net assessment prepared by the Office of Net Assessment of the Department of Defense; and

(2) a detailed description of the following:

(A) The number, type, and quality of direct and dual-use weapons of mass destruction and ballistic missile goods, items, and technology being transferred.

(B) The form, location, and manner in which such transfers take place.

(C) The contribution that such transfers could make to the recipient States' weapons of mass destruction and ballistic missile programs, and how soon such States will test, possess, and deploy weapons of mass destruction and ballistic missiles.

(D) The impact that such transfers have, or could have, on United States national security, on regional friends, allies, and interests, and on United States military forces deployed in the region to which such transfers are being made.

(E) The actions being taken by the United States to counter and defend against capabilities developed by the recipient States as a result of such transfers.

(F) The strategy, plan, or policy incorporating the full range of policy tools available that the President intends to employ to halt Russian proliferation, the rationale for employing such tools, and the timeline by which the President expects to see material progress in ending Russian proliferation of direct and dual-use weapons of mass destruction and missile goods, technologies, and know-how.

SEC. 1307. PROHIBITION AGAINST USE OF COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE STATES OF THE FORMER SOVIET UNION.

No Cooperative Threat Reduction funds authorized or appropriated for any fiscal year may be used for threat reduction projects, programs, or activities in countries other than the States of the former Soviet Union.

SEC. 1308. LIMITED WAIVER OF RESTRICTION ON USE OF FUNDS.

(a) WAIVER AUTHORITY.—(1) The restriction described in subsection (d)(5) of section 1203 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1779; 22 U.S.C. 5952) shall not apply with respect to United States assistance to Russia if the President submits to Congress a written certification that waiving the restriction is important to the national security interests of the United States.

(2) The authority under paragraph (1) shall expire on December 31, 2005.

(b) REPORT.—Not later than 30 days after the date that the President applies the waiver authority under subsection (a), the President shall submit to Congress a report (in classified and unclassified form as necessary) describing—

(1) the arms control agreements with which Russia is not committed to complying, the form or forms of noncommittal, and detailed evidence of such noncommittal;

(2) why use of the waiver of authority was important to protect national security interests; and

(3) a strategy, plan, or policy incorporating the full range of policy tools available to the President for promoting Russian commitment to, and compliance with, all relevant arms control agreements.

SEC. 1309. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF REPORT ON DEFENSE AND MILITARY CONTACTS ACTIVITIES.

Not more than 50 percent of fiscal year 2003 Cooperative Threat Reduction Funds may be obligated or expended for defense and military contacts activities until the Secretary of Defense submits to Congress a report describing in detail the operation and success of such activities carried out under Cooperative Threat Reduction programs during fiscal years 2001 and 2002. Such report shall include a description of—

(1) the amounts obligated or expended for such activities;

(2) the purposes, goals, and objectives for which such amounts were obligated and expended;

(3) a description of the activities carried out, including the forms of assistance provided, and the justification for each form of assistance provided;

(4) the success of each activity, including the goals and objectives achieved for each;

(5) a description of participation by private sector entities in the United States in carrying out such activities, and the participation of any other Federal department or agency in such activities; and

(6) any other information that the Secretary considers relevant to provide a complete description of the operation and success of activities carried out under Cooperative Threat Reduction programs.

TITLE XIV—UTAH TEST AND TRAINING RANGE

SEC. 1401. DEFINITION OF UTAH TEST AND TRAINING RANGE.

In this title, the term ''Utah Test and Training Range'' means those portions of the military operating area of the Utah Test and Training Area located solely in the State of Utah. The term includes the Dugway Proving Ground.

SEC. 1402. MILITARY OPERATIONS AND OVERFLIGHTS AT UTAH TEST AND TRAINING RANGE.

(a) FINDINGS.—The Congress finds the following:

(1) The testing and development of military weapons systems and the training of military forces are critical to ensuring the national security of the United States.

(2) The Utah Test and Training Range is a unique and irreplaceable national asset at the core of the test and training mission of the Department of Defense.

(3) Areas designated as wilderness study areas are located near lands withdrawn for military use and are beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range.

(4) Continued unrestricted access to the special use airspace and lands that comprise the Utah Test and Training Range is a national security priority and is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources of such lands.

(b) OVERFLIGHTS.—(1) Nothing in this title, the Wilderness Act (16 U.S.C. 1131 et seq.), or other land management laws generally applicable to federally designated wilderness areas or wilderness study areas in the Utah Test and Training Range shall restrict or preclude low-level overflights, low-level military overflights and operations of military aircraft, helicopters, unmanned aerial vehicles, military overflights or military overflights and operations that can be seen or heard within those areas.

(2) Paragraph (1) precludes any restriction regarding altitude or airspeed, noise level, supersonic flight, route of flight, time of flight, seasonal usage, or numbers of flights of any military aircraft, helicopters, unmanned aerial vehicles, missiles, aerospace vehicles, and other military weapons systems over federally designated wilderness areas or wilderness study areas in the Utah Test and Training Range.

(3) In this subsection, the term ''low-level'' includes any flight down to and including 10 feet above ground level.

(c) SPECIAL USE AIRSPACE AND TRAINING ROUTES.—Nothing in this title, the Wilderness

Act, or other land management laws generally applicable to federally designated wilderness areas or wilderness study areas in the Utah Test and Training Range shall restrict or preclude the designation of new units of special use airspace, the expansion of existing units of special use airspace, or the use or establishment of military training routes over federally designated wilderness areas or wilderness study areas in the Utah Test and Training Range.

(d) COMMUNICATIONS AND TRACKING SYSTEMS.—Nothing in this title, the Wilderness Act, or other land management laws generally applicable to federally designated wilderness areas or wilderness study areas in the Utah Test and Training Range shall be construed to require the removal of existing communications, instrumentation, or electronic tracking systems from these areas, to prevent any required maintenance of such systems, or to prevent the installation of new communication, instrumentation, or other equipment necessary for effective testing and training to meet military requirements so long as the installation and maintenance of such systems do not require construction of any permanent roads in any federally designated wilderness area or wilderness study area.

(e) EMERGENCY ACCESS AND RESPONSE.—(1) Nothing in this title, the Wilderness Act, or other land management laws generally applicable to federally designated wilderness areas or wilderness study areas in the Utah Test and Training Range shall restrict or preclude timely access to any area necessary to respond to emergency situations. Immediate access, including access for emergency and rescue vehicles and equipment, shall not be restricted if human life or health may be in jeopardy.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary of the Air Force and the Secretary of Interior shall enter into a memorandum of understanding providing formal procedures for access to the federally designated wilderness areas or wilderness study areas that are located beneath airspace of the Utah Test and Training Range, which may be necessary to respond to emergency situations, to rescue downed aircrew members, to investigate accident locations, to recover military aircraft or other weapons systems, and to restore accident locations. Military operations in the Utah Test and Training Range shall not be limited or restricted in any way pending completion of the memorandum of understanding.

(f) CONTROL OR RESTRICTION OF PUBLIC ACCESS.—(1) When required by national security or public safety, public access to federally designated wilderness areas or wilderness study areas in the Utah Test and Training Range that are located beneath airspace designated as special use airspace may be controlled, restricted, or prohibited entirely. Such controls, restrictions, or prohibitions shall remain in force for the minimum duration necessary. The Secretary of the Air Force shall provide advance notice of such controls, restrictions, or prohibitions to the Secretary of the Interior.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary of the Air Force and the Secretary of Interior shall enter into a memorandum of understanding prescribing procedures for implementing access controls, restrictions, or prohibitions. Military operations in the Utah Test and Training Range shall not be limited or restricted in any way pending completion of the memorandum of understanding.

SEC. 1403. DESIGNATION AND MANAGEMENT OF LANDS IN UTAH TEST AND TRAINING RANGE.

(a) DESIGNATION.—The following Federal lands that are in the Utah Test and Training Range are hereby designated as wilderness:

(1) Those lands that were managed pursuant to the nonimpairment standard set forth in section 603(c) of Public Law 94–579 (43 U.S.C. 1782(c)) on or before January 1, 1991.

(2) Those lands that were acquired by the United States through donation, exchange, or other method of acquisition and—

(A) are located entirely within the areas identified in paragraph (1); or

(B) are located within a logical extension of the boundaries of the areas identified in paragraph (1).

(b) PLANNING PROCESS FOR FEDERAL LANDS IN UTAH TEST AND TRAINING RANGE.—(1) The Secretary of the Interior shall not continue the plan amendment process initiated pursuant to section 202 of Public Law 94–579 (43 U.S.C. 1712) and published in the Federal Register on March 18, 1999 (64 Fed. Reg. 13439), for Federal lands located in the Utah Test and Training Range.

(2) The Secretary of the Interior shall not develop, maintain, or revise land use plans pursuant to section 202 of Public Law 94–579 (43 U.S.C. 1712) for Federal lands located in the Utah Test and Training Range without the prior concurrence of the Secretary of the Air Force and the Commander-in-Chief of the military forces of the State of Utah.

(c) WITHDRAWAL.—Subject to valid existing rights, the Federal lands in the areas designated as wilderness by this title are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments to such laws.

(d) WATER.—Nothing in this title or any action taken pursuant to this title shall constitute an express or implied reservation of surface or groundwater by any person, including the United States. Nothing in this title affects any valid existing water rights in existence before the date of the enactment of this Act, including any water rights held by the United States. If the United States determines that additional water resources are needed for the purposes of this title, the United States shall acquire such rights in accordance with the water laws of the State of Utah.

(e) MAP AND DESCRIPTION.—(1) As soon as practicable after the date of the enactment of this title, the Secretary of Interior shall transmit a map and legal description of the areas designated as wilderness by this title to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The map and legal description shall have the same force and effect as if included in this title, except that the Secretary of Interior may correct clerical and typographical errors in the map and legal description.

(3) The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah.

(f) ADMINISTRATION.—(1) Subject to valid existing rights and this title, the areas designated as wilderness in this title shall be administered by the Secretary of Interior in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of the enactment of this Act.

(2) Any lands or interest in lands within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired lands or interest in lands are located.

(3) The Secretary of the Interior may offer to acquire lands and interest in lands located within the areas designated as wilderness by this title. Such lands may be acquired at fair market value under this subsection by purchase from willing sellers, by exchange for lands of approximately equal value, or by donation.

(4) In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within the areas designated as wilderness by this title where consistent with relevant wilderness management plans, in accordance with appropriate policies and guidelines such as those set forth in appendix B of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(5) Within the areas designated as wilderness by this title, the grazing of livestock, where established before the date of the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary of the Interior considers necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, section 101(f) of Public Law 101–628, and House Report 101–405, Appendix A.

(6) Congress does not intend for the designation of the wilderness in this title to lead to the creation of protective perimeters or buffer zones around any area designated as wilderness by this title. The fact that nonwilderness activities or uses can be seen or heard within the areas designated as wilderness by this title shall not, of itself, preclude such activities or uses up to the boundary of that wilderness.

(7) Until completion of a full revision of the Pony Express Area Resource Management Plan, dated January 12, 1990, by the Salt Lake Field Office of the Bureau of Land Management, the Secretary of Interior shall not grant or issue any authorizations pursuant to section 501(a)(6) of Public Law 94–579 (43 U.S.C. 1761(a)(6)) upon Federal lands identified as inventory units UTU-020-088, UTU-020-095, UTU-020-096, and UTU-020-100, as generally depicted on the map entitled ''Wilderness Inventory, State of Utah'', dated August 1979.

SEC. 1404. DESIGNATION OF PILOT RANGE WILDERNESS.

Certain Federal lands in Box Elder County, Utah, as generally depicted on the map entitled ''Pilot Range Wilderness'', and dated October 1, 2001, are hereby designated as wilderness, and shall be known as the Pilot Range Wilderness Area.

SEC. 1405. DESIGNATION OF CEDAR MOUNTAIN WILDERNESS.

Certain Federal lands in Tooele County, Utah, as generally depicted on the map entitled ''Cedar Mountain Wilderness'', and dated May 1, 2002, are hereby designated as wilderness, and shall be known as the Cedar Mountain Wilderness Area.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Military Construction Authorization Act for Fiscal Year 2003''.

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	$1,900,000
	Fort Rucker	$3,050,000
	Redstone Arsenal	$1,950,000
Alaska	Fort Wainwright	$111,010,000
Arizona	Fort Huachuca	$10,400,000
	Yuma Proving Ground	$4,500,000
Arkansas	Pine Bluff Arsenal	$18,937,000
California	Monterey Defense Language Institute	$1,500,000
Colorado	Fort Carson	$5,350,000
District of Columbia	Walter Reed Army Medical Center	$9,950,000
Georgia	Fort Benning	$74,250,000
	Fort Stewart/Hunter Army Air Field	$26,000,000
Hawaii	Schofield Barracks	$191,000,000
Kansas	Fort Leavenworth	$3,150,000
	Fort Riley	$51,950,000
Kentucky	Blue Grass Army Depot	$5,500,000
	Fort Campbell	$106,300,000
Louisiana	Fort Polk	$31,000,000
Maryland	Fort Detrick	$22,500,000
Massachusetts	Natick Research Development and Engineering Center	$4,100,000
Missouri	Fort Leonard Wood	$15,500,000
New Jersey	Picatinny Arsenal	$7,500,000
New York	Fort Drum	$18,300,000
North Carolina	Fort Bragg	$94,900,000
Pennsylvania	Letterkenny Army Depot	$1,550,000
Texas	Fort Bliss	$10,200,000
	Fort Hood	$85,000,000
Virginia	Fort Lee	$5,200,000
Washington	Fort Lewis	$53,800,000
	Total	$976,247,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Belgium	Supreme Headquarters, Allied Powers Europe	$13,600,000
Germany	Area Support Group, Bamberg	$17,200,000
	Campbell Barracks	$8,300,000
	Coleman Barracks	$1,350,000
	Darmstadt	$3,500,000
	Grafenwoehr	$69,866,000
	Landstuhl	$2,400,000
	Mannheim	$42,000,000
	Schweinfurt	$2,000,000
Italy	Vicenza	$34,700,000
Korea	Camp Carroll	$20,000,000
	Camp Castle	$6,800,000
	Camp Hovey	$25,000,000
	Camp Humphreys	$36,000,000
	Camp Henry	$10,000,000
	K16 Airfield	$40,000,000
	Yongsan	$12,600,000
	Total	$345,316,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(3), the Secretary of the Army may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Army: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Unspecified Worldwide	$4,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State or Country	Installation or location	Purpose	Amount
Alaska	Fort Wainwright	38 Units	$17,752,000
Arizona	Yuma Proving Ground	33 Units	$6,100,000
Germany	Stuttgart	1 Unit	$990,000
Korea	Yongsan	10 Units	$3,100,000

Army: Family Housing—Continued

State or Country	Installation or location	Purpose	Amount
	Total:		$27,942,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $15,653,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $234,831,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,935,609,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $803,247,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $345,316,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2101(c), $4,000,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $21,550,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $158,796,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design and improvement of military family housing and facilities, $278,426,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,122,274,000.

(7) For the construction of phase 3 of a barracks complex, Butner Road, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398; 114 Stat. 1654A–389), $50,000,000.

(8) For the construction of phase 2 of a barracks complex, D Street, at Fort Richardson, Alaska, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), $21,000,000.

(9) For the construction of phase 2 of a barracks complex, Nelson Boulevard, at Fort Carson, Colorado, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), as amended by section 2105 of this Act, $42,000,000.

(10) For the construction of phase 2 of a basic combat trainee complex at Fort Jackson, South Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), as amended by section 2105 of this Act, $39,000,000.

(11) For the construction of phase 2 of a barracks complex, 17th and B Streets at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), $50,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) $18,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Main Post, at Fort Benning, Georgia);

(3) $100,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Capron Avenue, at Schofield Barracks, Hawaii);

(4) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Range Road, at Fort Campbell, Kentucky); and

(5) $5,000,000 (the balance of the amount authorized under section 2101(a) for a military construction project at Fort Bliss, Texas).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $13,676,000, which represents the combination of savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States and savings resulting from favorable bids, reduced overhead charges, and cancellations due to force structure changes.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1281) is amended—

(1) in the item relating to Fort Carson, Colorado, by striking ''$66,000,000'' in the amount column and inserting ''$67,000,000''; and

(2) in the item relating to Fort Jackson, South Carolina, by striking ''$65,650,000'' in the amount column and inserting ''$68,650,000''.

(b) CONFORMING AMENDMENTS.—Section 2104(b) of that Act (115 Stat. 1284) is amended—

(1) in paragraph (3), by striking ''$41,000,000'' and inserting ''$42,000,000''; and

(2) in paragraph (4), by striking ''$36,000,000'' and inserting ''$39,000,000''.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$3,000,000
California	Auxiliary Landing Field, San Diego (San Clemente Island)	$6,150,000
	Marine Corps Air-Ground Combat Center, Twentynine Palms	$40,870,000
	Marine Corps Air Station, Camp Pendleton	$31,930,000
	Marine Corps Air Station, Miramar	$12,210,000
	Marine Corps Base, Camp Pendleton	$64,040,000
	Marine Corps Logistics Base, Barstow	$4,450,000
	Naval Air Station, Lemoore	$35,855,000
	Naval Air Warfare Center, Point Mugu, San Nicholas Island	$6,760,000
	Naval Air Weapons Station, China Lake	$10,100,000
	Naval Post Graduate School, Monterey	$9,020,000
	Naval Station, San Diego	$12,210,000
Connecticut	Naval Submarine Base, New London	$7,880,000
District of Columbia	Marine Corps Barracks	$3,700,000
	Naval District, Washington	$2,690,000
Florida	Naval Air Base, Jacksonville	$13,342,000
	Naval Air Station, Pensacola	$990,000
	Naval School Explosive Ordinance Detachment, Eglin	$6,350,000
	Naval Station, Mayport	$1,900,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
	Whiting Field	$1,780,000
Georgia	Naval Submarine Base, Kings Bay	$1,580,000
Hawaii	Naval Shipyard, Pearl Harbor	$18,500,000
	Naval Station, Pearl Harbor	$14,690,000
Illinois	Naval Training Center, Great Lakes	$93,190,000
Indiana	Crane Naval Surface Weapons Station	$11,610,000
Maine	Naval Shipyard, Kittery-Portsmouth	$15,200,000
Maryland	Naval Air Facility, Andrews Air Force Base	$9,680,000
	United States Naval Academy	$1,800,000
Mississippi	Naval Air Station, Meridian	$2,850,000
	Naval Construction Battalion Center, Gulfport	$5,460,000
	Naval Station, Pascagoula	$16,160,000
Nevada	Naval Air Station, Fallon	$4,010,000
New Jersey	Naval Weapons Center, Lakehurst	$5,200,000
	Naval Weapons Station Earle, Colts Neck	$5,600,000
North Carolina	Marine Corps Air Station, Cherry Point	$10,470,000
	Marine Corps Air Station, New River	$6,920,000
	Marine Corps Base, Camp Lejeune	$9,570,000
Rhode Island	Naval Station, Newport	$6,870,000
South Carolina	Marine Corps Air Station, Beaufort	$13,700,000
	Marine Corps Recruit Depot, Parris Island	$10,490,000
	Naval Weapons Station, Charlestown	$5,740,000
Texas	Naval Air Station, Corpus Christi	$7,150,000
	Naval Air Station Joint Reserve Base, Fort Worth	$8,850,000
	Naval Air Station, Kingsville	$6,210,000
Virginia	Dam Neck Fleet Combat Training Center, Atlantic	$3,900,000
	Little Creek Naval Amphibious Base	$9,770,000
	Marine Corps Combat Development Command, Quantico	$24,864,000
	Naval Air Station Oceana	$16,490,000
	Naval Shipyard, Norfolk, Portsmouth	$19,660,000
	Naval Station, Norfolk	$171,505,000
	Naval Surface Warfare Center, Dahlgren	$15,830,000
	Naval Weapons Station, Yorktown	$15,020,000
Washington	Naval Air Station, Whidbey Island	$17,580,000
	Keyport Naval Undersea Warfare Command	$10,500,000
	Naval Magazine, Indian Island	$4,030,000
	Naval Station, Bremerton	$45,870,000
	Naval Submarine Base, Bangor	$22,310,000
	Puget Sound Naval Shipyard, Bremerton	$57,132,000
	Strategic Weapons Facility, Bangor	$7,340,000
Various Locations	Host Nation Infrastructure	$1,000,000
	Total	$1,009,528,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Bahrain	Naval Support Activity, Bahrain	$25,970,000
Diego Garcia	Diego Garcia, Naval Support Facility	$11,090,000
Greece	Naval Support Activity, Joint Headquarters Command, Larissa	$14,800,000
Guam	Commander, United States Naval Forces, Guam	$13,400,000
Iceland	Naval Air Station, Keflavik	$14,920,000
Italy	Naval Air Station, Sigonella	$55,660,000
	Total	$135,840,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State or Country	Installation or location	Purpose	Amount
California	Naval Air Station, Lemoore	178 Units	$40,981,000
	Marine Corps Air-Ground Combat Center, Twentynine Palms	76 Units	$19,425,000
Connecticut	Naval Submarine Base, New London	100 Units	$24,415,000
Florida	Naval Station, Mayport	1 Unit	$329,000
Hawaii	Marine Corps Base, Kaneohe Bay	65 Units	$24,797,000
Maine	Naval Air Station, Brunswick	26 Units	$5,800,000
Mississippi	Naval Air Station, Meridian	56 Units	$9,755,000
North Carolina	Marine Corps Base, Camp LeJeune	317 Units	$43,650,000
Virginia	Marine Corps Base, Quantico	290 Units	$41,843,000
United Kingdom	Joint Maritime Facility, St. Mawgan	62 Units	$18,524,000
		Total	$229,519,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriation in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $11,281,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $136,816,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,308,007,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $776,806,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $133,270,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $23,262,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $95,745,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $377,616,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $867,788,000.

(6) For replacement of a pier at Naval Station, Norfolk, Virginia, authorized in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1287), as amended by section 2205 of this Act, $33,520,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $48,120,000 (the balance of the amount authorized under section 2201(a) for a bachelors enlisted quarters shipboard ashore, Naval Station, Norfolk, Virginia); and

(3) $2,570,000 (the balance of the amount authorized under section 2201(b) for a quality of life support facility, Naval Air Station Sigonella, Italy).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $1,340,000, which represents the combination of savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States and savings resulting from favorable bids, reduced overhead charges, and cancellations due to force structure changes.

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECT.

(a) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1286) is amended—

(1) in the item relating to Naval Station, Norfolk, Virginia, by striking ''$139,270,000'' in the amount column and inserting ''$139,550,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$1,059,030,000''.

(b) CONFORMING AMENDMENT.—Section 2204(b)(2) of that Act (115 Stat. 1289) is amended by striking ''$33,240,000'' and inserting ''$33,520,000''.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$8,000,000
Alaska	Clear Air Station	$14,400,000
	Eielson Air Force Base	$21,600,000
Arizona	Davis-Monthan Air Force Base	$19,270,000
	Luke Air Force Base	$13,000,000
Arkansas	Little Rock Air Force Base	$25,600,000
California	Beale Air Force Base	$11,740,000
	Travis Air Force Base	$9,600,000
	Vandenberg Air Force Base	$10,500,000
Colorado	Buckley Air National Guard Base	$17,700,000
	Peterson Air Force Base	$2,000,000
	Schriever Air Force Base	$5,700,000
	United States Air Force Academy	$9,400,000
District of Columbia	Bolling Air Force Base	$1,500,000
Florida	Elgin Air Force Base	$4,250,000
	Hurlburt Field	$15,000,000
	McDill Air Force Base	$21,000,000
	Tyndall Air Force Base	$8,100,000
Georgia	Robins Air Force Base	$5,400,000
Hawaii	Hickam Air Force Base	$1,350,000
Kansas	McConnell Air Force Base	$7,500,000
Louisiana	Barksdale Air Force Base	$10,900,000
Maryland	Andrews Air Force Base	$9,600,000
Massachusetts	Hanscom Air Force Base	$7,700,000
Mississippi	Keesler Air Force Base	$22,000,000
Nevada	Nellis Air Force Base	$37,350,000
New Jersey	McGuire Air Force Base	$24,631,000
New Mexico	Cannon Air Force Base	$4,650,000
	Holloman Air Force Base	$4,650,000
	Kirtland Air Force Base	$21,900,000
North Carolina	Pope Air Force Base	$9,700,000
Ohio	Wright-Patterson Air Force Base	$25,000,000
Oklahoma	Tinker Air Force Base	$7,500,000
South Carolina	Shaw Air Force Base	$6,800,000
Texas	Lackland Air Force Base	$37,300,000
	Laughlin Air Force Base	$8,000,000
	Sheppard Air Force Base	$24,000,000
Utah	Hill Air Force Base	$14,500,000
Virginia	Langley Air Force Base	$71,940,000
	Total	$580,731,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Diego Garcia	Diego Garcia	$17,100,000
Germany	Ramstein Air Force Base	$71,783,000
Guam	Andersen Air Force Base	$31,000,000
Italy	Aviano Air Force Base	$6,600,000
Japan	Kadena Air Force Base	$6,000,000
Korea	Osan Air Base	$15,100,000
Spain	Naval Station, Rota	$31,818,000
Turkey	Incirlik Air Force Base	$1,550,000
United Kingdom	Royal Air Force, Fairford	$19,000,000
	Royal Air Force, Lakenheath	$13,400,000
Wake Island	Wake Island	$24,900,000
	Total	$238,251,000

(c) UNSPECIFIED WORLDWIDE.—Using the amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Classified Location	$32,562,000
	Total	$32,562,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or location	Purpose	Amount
Arizona	Luke Air Force Base	140 Units	$18,954,000
California	Travis Air Force Base	110 Units	$24,320,000
Colorado	Peterson Air Force Base	2 Units	$959,000
	United States Air Force Academy	71 Units	$12,424,000
Delaware	Dover Air Force Base	112 Units	$19,615,000
Florida	Eglin Air Force Base	Housing Office	$597,000
	Eglin Air Force Base	134 Units	$15,906,000
	MacDill Air Force Base	96 Units	$18,086,000
Hawaii	Hickam Air Force Base	96 Units	$29,050,000
Idaho	Mountain Home Air Force Base	95 Units	$24,392,000
Kansas	McConnell Air Force Base	Housing Maintenance Facility	$1,514,000
Maryland	Andrews Air Force Base	53 Units	$9,838,000
	Andrews Air Force Base	52 Units	$8,807,000
Mississippi	Columbus Air Force Base	Housing Office	$412,000
	Keesler Air Force Base	117 Units	$16,505,000
Missouri	Whiteman Air Force Base	97 Units	$17,107,000
Montana	Malmstrom Air Force Base	18 Units	$4,717,000
New Mexico	Holloman Air Force Base	101 Units	$20,161,000
North Carolina	Pope Air Force Base	Housing Maintenance Facility	$991,000
	Seymour Johnson Air Force Base	126 Units	$18,615,000
North Dakota	Grand Forks Air Force Base	150 Units	$30,140,000
	Minot Air Force Base	112 Units	$21,428,000
	Minot Air Force Base	102 Units	$20,315,000
Oklahoma	Vance Air Force Base	59 Units	$11,423,000
South Dakota	Ellsworth Air Force Base	Housing Maintenance Facility	$447,000
	Ellsworth Air Force Base	22 Units	$4,794,000
Texas	Dyess Air Force Base	85 Units	$14,824,000
	Randolph Air Force Base	Housing Maintenance Facility	$447,000
	Randolph Air Force Base	112 Units	$14,311,000
Virginia	Langley Air Force Base	Housing Office	$1,193,000
Germany	Ramstein Air Force Base	19 Units	$8,534,000
Korea	Osan Air Base	113 Units	$35,705,000
	Osan Air Base	Housing Supply Warehouse	$834,000
United Kingdom	Royal Air Force, Lakenheath	Housing Office and Maintenance Facility	$2,203,000
	Total		$429,568,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $34,188,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, Unites States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $217,286,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,495,094,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $580,731,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $238,251,000.

(3) For the military construction projects at unspecified worldwide locations authorized by section 2301(c), $32,562,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $11,500,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $76,958,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $681,042,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $874,050,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $10,281,000, which represents the combination of savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States and savings resulting from favorable bids, reduced overhead charges, and cancellations due to force structure changes.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Missile Defense Agency	Kauai, Hawaii	$23,400,000
Defense Intelligence Agency	Bolling Air Force Base, District of Columbia	$121,958,000
Defense Logistics Agency	Columbus, Ohio	$5,021,000
	Defense Supply Center, Richmond, Virginia	$5,500,000
	Naval Air Station, New Orleans, Louisiana	$9,500,000
	Travis Air Force Base, California	$16,000,000
Defense Threat Reduction Agency	Fort Belvoir, Virginia	$76,388,000
Department of Defense Dependents Schools	Fort Bragg, North Carolina	$2,036,000
	Fort Jackson, South Carolina	$2,506,000
	Marine Corps Base, Camp Lejeune, North Carolina	$12,138,000
	Marine Corps Base, Quantico, Virginia	$1,418,000
	United States Military Academy, West Point, New York	$4,347,000
	Fort Meade, Maryland	$4,484,000
Joint Chiefs of Staff	Peterson Air Force Base, Colorado	$18,400,000
National Security Agency	Fort Bragg, North Carolina	$30,800,000
Special Operations Command	Hurlburt Field, Florida	$11,100,000
	Naval Amphibious Base, Little Creek, Virginia	$14,300,000
TRICARE Management Activity	Elmendorf Air Force Base, Alaska	$10,400,000
	Hickam Air Force Base, Hawaii	$2,700,000
	Total	$372,396,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Logistics Agency	Andersen Air Force Base, Guam	$17,586,000
	Naval Forces Marianas Islands, Guam	$6,000,000
	Naval Station, Rota, Spain	$23,400,000
	Royal Air Force, Fairford, United Kingdom	$17,000,000
	Yokota Air Base, Japan	$23,000,000
Department of Defense Dependents Schools	Kaiserslautern, Germany	$957,000
	Lajes Field, Azores, Portugal	$1,192,000
	Seoul, Korea	$31,683,000
	Supreme Headquarters, Allied Powers Europe, Belgium	$1,573,000
	Spangdahlem Air Base, Germany	$997,000
	Vicenza, Italy	$2,117,000
TRICARE Management Activity	Naval Support Activity, Naples, Italy	$41,449,000
	Spangdahlem Air Base, Germany	$39,629,000
	Total	$206,583,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(8)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $5,530,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(4), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $49,531,000.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,417,779,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $335,796,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $206,583,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,293,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $45,432,000.

(6) For energy conservation projects authorized by section 2403 of this Act, $49,531,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $545,138,000.

(8) For military family housing functions:

(A) For improvement of military family housing and facilities, $5,480,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $42,432,000.

(C) For credit to the Department of Defense Housing Improvement Fund established by section 2883(a) of title 10, United States Code, as amended by section 2801 of this Act, $2,000,000.

(9) For payment of a claim against the Hospital Replacement project at Elmendorf Air Force Base, Alaska, $10,400,000.

(10) For the construction of phase 4 of an ammunition demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of this Act, $38,000,000.

(11) For the construction of phase 5 of an ammunition demilitarization facility at Newport Army Depot, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of this Act, $61,494,000.

(12) For the construction of phase 5 of an ammunition demilitarization facility at Aberdeen Proving Ground, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1299), $30,600,000.

(13) For the construction of phase 3 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of this Act, $10,300,000.

(14) For the construction of phase 3 of an ammunition demilitarization support facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), $8,300,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $26,200,000 (the balance of the amount authorized under section 2401(a) for the construction of the Defense Threat Reduction Center, Fort Belvoir, Virginia).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (14) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $42,833,000, which represents the combination of savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States and savings resulting from favorable bids, reduced overhead charges, and cancellations due to force structure changes.

SEC. 2405. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECT.

(a) MODIFICATION.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298), is further amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Blue Grass Army Depot, Kentucky, by striking ''$254,030,000'' in the amount column and inserting ''$290,325,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$748,245,000''.

(b) CONFORMING AMENDMENT.—Section 2405(b)(3) of that Act (113 Stat. 839), as so amended, is further amended by striking ''$231,230,000'' and inserting ''$267,525,000''.

SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1999 PROJECT.

(a) MODIFICATION.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1299), is amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Newport Army Depot, Indiana, by striking ''$191,550,000'' in the amount column and inserting ''$293,853,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$829,919,000''.

(b) CONFORMING AMENDMENT.—Section 2404(b)(2) of that Act (112 Stat. 2196) is amended by striking ''$162,050,000'' and inserting ''$264,353,000''.

SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1997 PROJECT.

(a) MODIFICATION.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839), is further amended—

(1) under the agency heading relating to Chemical Demilitarization Program, in the item relating to Pueblo Chemical Activity, Colorado, by striking ''$203,500,000'' in the amount column and inserting ''$261,000,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$607,454,000''.

(b) CONFORMING AMENDMENT.—Section 2406(b)(2) of that Act (110 Stat. 2779), as so amended, is further amended by striking ''$203,500,000'' and inserting ''$261,000,000''.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $168,200,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) IN GENERAL.—There are authorized to be appropriated for fiscal years beginning after September 30, 2002, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions there for, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $170,793,000; and

(B) for the Army Reserve, $86,789,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $66,971,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $119,266,000; and

(B) for the Air Force Reserve, $68,576,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2005; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2005; or

(2) the date of the enactment of an Act authorized funds for fiscal year 2005 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2000 PROJECTS.

(a) EXTENSION OF CERTAIN PROJECTS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 841), authorizations set forth in the tables in subsection (b), as provided in section 2302 or 2601 of that Act, shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Oklahoma	Tinker Air Force Base	Replace Family Housing (41 Units)	$6,000,000

Army National Guard: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Virginia	Fort Pickett	Multi-Purpose Range Complex–Heavy	$13,500,000

(c) EXTENSION OF ADDITIONAL PROJECT.—Notwithstanding any other provision of law, the authorization set forth in the table in subsection (d), as provided in section 8160 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1274), shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(d) TABLE FOR EXTENSION OF ADDITIONAL PROJECT.—The table referred to in subsection (c) is as follows:

Army National Guard: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Pennsylvania	Connellsville	Readiness Center	$1,700,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1999 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2199), authorizations set forth in the table in subsection (b), as provided in section 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1301), shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Air Force: Extension of 1999 Project Authorizations

State	Installation or location	Project	Amount
Delaware	Dover Air Force Base	Replace Family Housing (55 Units)	$8,988,000
Florida	Patrick Air Force Base	Replace Family Housing (46 Units)	$9,692,000
New Mexico	Kirtland Air Force Base	Replace Family Housing (37 Units)	$6,400,000
Ohio	Wright-Patterson Air Force Base	Replace Family Housing (40 Units)	$5,600,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2002; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. CHANGES TO ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) AUTHORIZED UTILITIES AND SERVICES.—Section 2872a(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

''(11) Firefighting and fire protection services.

''(12) Police protection services.''.

(b) LEASING OF HOUSING.—Subsection (a) of section 2874 of such title is amended to read as follows:

''(a) LEASE AUTHORIZED.—(1) The Secretary concerned may enter into contracts for the lease

of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.

''(2) The Secretary concerned shall utilize housing units leased under paragraph (1) as military family housing or military unaccompanied housing, as appropriate.''.

(c) REPEAL OF INTERIM LEASE AUTHORITY.—Section 2879 of such title is repealed.

(d) SPACE LIMITATIONS BY PAY GRADE.—Section 2880(b)(2) of such title is amended by striking ''unless the unit is located on a military installation''.

(e) DEPARTMENT OF DEFENSE HOUSING FUND.—(1) Section 2883 of such title is amended by striking subsections (a), (b), and (c) inserting the following new subsections (a) and (b):

''(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Department of Defense Housing Improvement Fund (in this section referred to as the 'Fund').

''(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

''(1) Amounts authorized for and appropriated to the Fund.

''(2) Subject to subsection (e), any amounts that the Secretary of Defense transfers, in such amounts as are provided for in appropriation Acts, to the Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military family housing or military unaccompanied housing.

''(3) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military family housing or military unaccompanied housing.

''(4) Income derived from any activities under this subchapter with respect to military family housing or military unaccompanied housing, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

''(5) Any amounts that the Secretary of the Navy transfers to the Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.''.

(2) Such section is further amended—

(A) by redesignating subsections (d) through (g) as (c) through (f), respectively;

(B) in subsection (c), as so redesignated—

(i) in the subsection heading, by striking ''FUNDS'' and inserting ''FUND'';

(ii) in paragraph (1)—

(I) by striking ''subsection (e)'' and inserting ''subsection (d)''; and

(II) by striking ''Department of Defense Family Housing Improvement Fund'' and inserting ''Fund'';

(iii) by striking paragraph (2); and

(iv) by redesignating paragraph (3) as paragraph (2);

(C) in subsection (d), as so redesignated, by striking ''required to be used to satisfy the obligation'';

(D) in subsection (e), as so redesignated, by striking ''a Fund under paragraph (1)(B) or (2)(B) of subsection (c)'' and inserting ''the Fund under subsection (b)(2)''; and

(E) in subsection (f), as so redesignated—

(i) in paragraph (1), by striking ''$850,000,000'' and inserting ''$1,700,000,000''; and

(ii) in paragraph (2), by striking ''$150,000,000'' and inserting ''$300,000,000''.

(f) TRANSFER OF UNOBLIGATED AMOUNTS.—(1) The Secretary of Defense shall transfer to the Department of Defense Housing Improvement Fund established under section 2883(a) of title 10, United States Code (as amended by subsection (e)), any amounts in the Department of Defense Family Housing Improvement Fund and the Department of Defense Military Unaccompanied Housing Improvement that remain available for obligation as of the date of the enactment of this Act.

(2) Amounts transferred to the Department of Defense Housing Improvement Fund under paragraph (1) shall be merged with amounts in that Fund, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that Fund.

(g) CONFORMING AMENDMENTS.—(1) Paragraph (3) of section 2814(i) of such title is amended—

(A) by striking subparagraph (A) and inserting the following new subparagraph (A):

''(A) The Secretary may transfer funds from the Ford Island Improvement Account to the Department of Defense Housing Improvement Fund established by section 2883(a) of this title.''; and

(B) in subparagraph (B), by striking ''a fund'' and inserting ''the Fund''.

(2) Section 2871(6) of such title is amended by striking ''Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund'' and inserting ''Department of Defense Housing Improvement Fund''.

(3) Section 2875(e) of such title is amended by striking ''Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund'' and inserting ''Department of Defense Housing Improvement Fund''.

(h) CLERICAL AMENDMENTS.—(1) The section heading for section 2874 of such title is amended to read as follows:

''§ 2874. Leasing of housing''.

(2) The section heading for section 2883 of such title is amended to read as follows:

''§ 2883. Department of Defense Housing Improvement Fund''.

(3) The table of sections at the beginning subchapter IV of chapter 169 of such title is amended—

(A) by striking the item relating to section 2874 and inserting the following new item:

''2874. Leasing of housing.'';

(B) by striking the item relating to section 2879; and

(C) by striking the item relating to section 2883 and inserting the following new item:

''2883. Department of Defense Housing Improvement Fund.''.

SEC. 2802. MODIFICATION OF AUTHORITY TO CARRY OUT CONSTRUCTION PROJECTS AS PART OF ENVIRONMENTAL RESPONSE ACTION.

(a) AUTHORITY TO CARRY OUT UNAUTHORIZED PROJECTS.—Subsection (a) of section 2810 of title 10, United States Code, is amended to read as follows:

''(a) AUTHORITY TO CARRY OUT UNAUTHORIZED CONSTRUCTION PROJECTS.—The Secretary concerned may carry out a military construction project not otherwise authorized by law if the Secretary determines that the project is necessary to carry out a response under chapter 160 of this title or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).''.

(b) CONGRESSIONAL NOTIFICATION.—Subsection (b) of such section is amended by striking ''(1)'' and the first sentence and inserting ''CONGRESSIONAL NOTIFICATION.—(1) When a decision is made to carry out a military construction project under this section that exceeds the amount specified in section 2805(b)(1) of this title, the Secretary concerned shall submit a report in writing to the appropriate committees of Congress on that decision.''.

(c) DEFINITION.—Subsection (c) of such section is amended—

(1) by inserting ''RESPONSE DEFINED.—'' after ''(c)''; and

(2) by striking ''action''.

SEC. 2803. LEASING OF MILITARY FAMILY HOUSING IN KOREA.

Paragraph (3) of section 2828(e) of title 10, United States Code, is amended to read as follows:

''(3) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease in Korea—

''(A) not more than 1,175 units of family housing subject to that maximum lease amount; and

''(B) not more than 2,400 units of family housing subject to a maximum lease amount of $35,000 per unit per year.''.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. AGREEMENTS WITH PRIVATE ENTITIES TO LIMIT ENCROACHMENTS AND OTHER CONSTRAINTS ON MILITARY TRAINING, TESTING, AND OPERATIONS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2684 the following new section:

''§ 2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations

''(a) AGREEMENTS AUTHORIZED.—The Secretary of a military department may enter into an agreement with a private entity described in subsection (b) to address the use or development of real property in the vicinity of a military installation for purposes of—

''(1) limiting any development or use of the property that would otherwise be incompatible with the mission of the installation; or

''(2) preserving habitat on the property in a manner that is compatible with both—

''(A) current or anticipated environmental restrictions that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on the installation; and

''(B) current or anticipated military training, testing, or operations on the installation.

''(b) COVERED PRIVATE ENTITIES.—A private entity referred to in subsection (a) is any private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, as determined by the Secretary concerned.

''(c) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Chapter 63 of title 31 shall not apply to any agreement entered into under this section.

''(d) ACQUISITION AND ACCEPTANCE OF PROPERTY AND INTERESTS.—(1) An agreement with a private entity under this section—

''(A) may provide for the private entity to acquire all right, title, and interest in and to any real property, or any lesser interest in the property, as may be appropriate for purposes of this section; and

''(B) shall provide for the private entity to transfer to the United States, upon the request of the United States, any property or interest so acquired.

''(2) Property or interests may not be acquired pursuant to an agreement under this section unless the owner of the property or interests, as the case may be, consents to the acquisition.

''(3) An agreement under this section providing for the acquisition of property or interests under paragraph (1)(A) shall provide for the sharing by the United States and the private entity concerned of the costs of the acquisition of the property or interests.

''(4) The Secretary concerned shall identify any property or interests to be acquired pursuant to an agreement under this section. The property or interests shall be limited to the minimum property or interests necessary to ensure that the property concerned is developed and used in a manner appropriate for purposes of this section.

''(5) Notwithstanding any other provision of law, the Secretary concerned may accept on behalf of the United States any property or interest to be transferred to the United States under paragraph (1)(B).

''(6) The Secretary concerned may, for purposes of the acceptance of property or interests under this subsection, accept an appraisal or title documents prepared or adopted by a non-Federal entity as satisfying the applicable requirements of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651) or section 355 of the Revised Statutes (40 U.S.C. 255) if the Secretary finds that the appraisal or title documents substantially comply with the requirements.

''(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in an agreement under this section as the Secretary considers appropriate to protect the interests of the United States.

''(f) FUNDING.—(1) Except as provided in paragraph (2), funds authorized to be appropriated for operation and maintenance of the Army, Navy, Marine Corps, Air Force, or Defense-wide activities, including funds authorized to be appropriated for the Legacy Resources Management Program, may be used to enter into agreements under this section.

''(2) In the case of a military installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Army, Navy, Marine Corps, Air Force, or Defense-wide activities for research, development, test, and evaluation may be used to enter into agreements under this section with respect to the installation.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2684 the following new item:

''2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations.''.

SEC. 2812. CONVEYANCE OF SURPLUS REAL PROPERTY FOR NATURAL RESOURCE CONSERVATION PURPOSES.

(a) CONVEYANCE AUTHORITY.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2694 the following new section:

''§ 2694a. Conveyance of surplus real property for natural resource conservation

''(a) AUTHORITY TO CONVEY.—The Secretary of a military department may convey to an eligible recipient described in subsection (b) any surplus real property that—

''(1) is under the administrative control of the Secretary;

''(2) is suitable and desirable for conservation purposes;

''(3) has been made available for public benefit transfer for a sufficient period of time to potential claimants; and

''(4) is not subject to a pending request for transfer to another Federal agency or for conveyance to any other qualified recipient for public benefit transfer under the real property disposal processes and authorities established pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, et seq.).

''(b) ELIGIBLE RECIPIENTS.—The conveyance of surplus real property under subsection (a) may be made to any of the following:

''(A) A State or political subdivision of a State.

''(B) A nonprofit organization that exists for the primary purpose of conservation of natural resources on real property.

''(c) REVISIONARY INTEREST AND OTHER DEED REQUIREMENTS.—(1) The deed of conveyance of any surplus real property conveyed under subsection (a) disposed of under this subsection shall require the property to be used and maintained for the conservation of natural resources in perpetuity. If the Secretary of the military department that made the conveyance determines at any time that the property is not being used or maintained for such purpose, then, at the option of the Secretary, all or any portion of the property shall revert to the United States.

''(2) The deed of conveyance may permit the recipient of the property—

''(A) to convey the property to another eligible entity described in subsection (b), subject to the approval of the Secretary of the military department that made the conveyance and subject to the same covenants and terms and conditions as provided in the deed from the United States; and

''(B) to conduct incidental revenue-producing activities on the property that are compatible with the use of the property for conservation purposes.

''(3) The deed of conveyance may contain such additional terms, reservations, restrictions, and conditions as the Secretary of the military department considers appropriate to protect the interests of the United States.

''(d) RELEASE OF COVENANTS.—The Secretary of the military department that conveys real property under subsection (a), with the concurrence of the Secretary of Interior, may grant a release from a covenant included in the deed of conveyance of the property under subsection (c) on the condition that the recipient of the property pay the fair market value, as determined by the Secretary of the military department, of the property at the time of the release of the covenant. The Secretary of the military department may reduce the amount required to be paid under this subsection to account for the value of the natural resource conservation benefit that has accrued to the United States during the period the covenant was in effect, if the benefit was not taken into account in determining the original consideration for the conveyance.

''(e) LIMITATIONS.—A conveyance under subsection (a) shall not be used in settlement of any litigation, dispute, or claim against the United States, or as a condition of allowing any defense activity under any Federal, State, or local permitting or review process. The Secretary of a military department may make a conveyance under subsection (a), with the restrictions specified in subsection (c), to establish a mitigation bank, but only if the establishment of the mitigation bank does not occur in order to satisfy any condition for permitting military activity under a Federal, State, or local permitting or review process.

''(f) CONSIDERATION.—In fixing the consideration for the conveyance of real property under subsection (a) or in determining the amount of any reduction of the amount to be paid for the release of a covenant under subsection (d), the Secretary of the military department concerned shall take into consideration any benefit that has accrued or may accrue to the United States from the use of such property for the conservation of natural resources.

''(g) RELATION TO OTHER CONVEYANCE AUTHORITIES.—(1) The Secretary of a military department may not make a conveyance under this section of any real property to be disposed of under a base closure law in a manner that is inconsistent with the requirements and conditions of the base closure law.

''(2) In the case of real property on Guam, the Secretary of a military department may not make a conveyance under this section unless the Government of Guam has been first afforded the opportunity to acquire the real property as authorized by section 1 of Public Law 106–504 (114 Stat. 2309).

''(h) DEFINITIONS.—In this section:

''(1) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.

''(2) The term 'base closure law' means the following:

''(A) Section 2687 of this title.

''(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (10 U.S.C. 2687 note).

''(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''(D) Any other similar authority for the closure or realignment of military installations that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2694 the following new item:

''2694a. Conveyance of surplus real property for natural resource conservation.''.

(b) ACCEPTANCE OF FUNDS TO COVER ADMINISTRATIVE EXPENSES.—Section 2695(b) of such title is amended by adding at the end the following new paragraph:

''(5) The conveyance of real property under section 2694a of this title.''.

(c) AGREEMENTS WITH NONPROFIT NATURAL RESOURCE CONSERVATION ORGANIZATIONS.—Section 2701(d) of such title is amended—

(1) in paragraph (1), by striking ''with any State or local government agency, or with any Indian tribe,'' and inserting ''any State or local government agency, any Indian tribe, or any nonprofit conservation organization''; and

(2) by striking paragraph (3) and inserting the following new paragraph:

''(3) DEFINITIONS.—In this subsection:

''(A) The term 'Indian tribe' has the meaning given such term in section 101(36) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).

''(B) The term 'nonprofit conservation organization' means any non-governmental nonprofit organization whose primary purpose is conservation of open space or natural resources.''.

SEC. 2813. NATIONAL EMERGENCY EXEMPTION FROM SCREENING AND OTHER REQUIREMENTS OF MCKINNEY-VENTO HOMELESS ASSISTANCE ACT FOR PROPERTY USED IN SUPPORT OF RESPONSE ACTIVITIES.

Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

''(i) APPLICABILITY TO CERTAIN PROPERTY DURING EMERGENCIES.—The screening requirements and other provisions of this section shall not apply to any property that is excess property or surplus property or that is described as unutilized or underutilized property if the property is subject to a request for conveyance or use for the purpose of directly supporting activities in response to—

''(1) a war or national emergency declared in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.); or

''(2) an emergency or major disaster declared in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).''.

SEC. 2814. DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may conduct a demonstration program to assess the feasibility and desirability of including facility maintenance requirements in construction contracts for military construction projects for the purpose of determining whether such requirements facilitate reductions in the long-term facility maintenance costs of the military departments.

(b) CONTRACTS.—Not more than 12 contracts may contain requirements referred to in subsection (a) for the purpose of the demonstration program under this section. The demonstration program may only cover contracts entered into on or after the date of the enactment of this Act.

(c) EFFECTIVE PERIOD OF REQUIREMENTS.—The effective period of a requirement referred to in subsection (a) that is included in a contract

for the purpose of the demonstration program under this program may not exceed five years.

(d) REPORTING REQUIREMENTS.—Not later than January 31, 2005, the Secretary of Defense shall submit to Congress a report on the demonstration program authorized by this section and the related Department of the Army demonstration program authorized by section 2814 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1310; 10 U.S.C. 2809 note), including the following:

(1) A description of all contracts entered into under the demonstration programs.

(2) An evaluation of the demonstration programs and a description of the experience of the Secretary of Defense and the Secretary of the Army respect to such contracts.

(3) Any recommendations, including recommendations for the termination, continuation, or expansion of the demonstration programs, that the Secretary of Defense or the Secretary of the Army considers appropriate.

(e) EXPIRATION.—The authority under subsection (a) to include requirements referred to in that subsection in contracts under the demonstration program under this section shall expire on September 30, 2006.

(f) FUNDING.—Amounts authorized to be appropriated for a fiscal year for military construction shall be available for the demonstration program under this section in such fiscal year.

(g) CONFORMING AMENDMENT.—Section 2814 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1310; 10 U.S.C. 2809 note) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 2815. EXPANDED AUTHORITY TO TRANSFER PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED TO PERSONS WHO CONSTRUCT OR PROVIDE MILITARY FAMILY HOUSING.

(a) 1988 LAW.—Section 204(e)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking the last sentence.

(b) 1990 LAW.—Section 2905(f)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking the last sentence.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2821. LAND CONVEYANCES, LANDS IN ALASKA NO LONGER REQUIRED FOR NATIONAL GUARD PURPOSES.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to an eligible entity described subsection (b) all right, title, and interest of the United States in and to any parcel of real property, including any improvements thereon, in the State of Alaska described in subsection (c) if the Secretary determines the conveyance would be in the public interest.

(b) ELIGIBLE RECIPIENTS.—The following entities shall be eligible to receive real property under subsection (a):

(1) The State of Alaska.

(2) A governmental entity in the State of Alaska.

(3) A Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

(4) The Metlakatla Indian Community.

(c) COVERED PROPERTY.—Subsection (a) applies to real property located in the State of Alaska that—

(1) is under the jurisdiction of the Department of the Army and, before December 2, 1980, was under such jurisdiction for the use of the Alaska National Guard;

(2) is located in a unit of the National Wildlife Refuge System designated in the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 668dd note);

(3) is excess to the needs of the Alaska National Guard and the Department of Defense; and

(4) the Secretary determines that—

(A) the anticipated cost to the United States of retaining the property exceeds the value of such property; or

(B) the condition of the property makes it unsuitable for retention by the United States.

(d) CONSIDERATION.—The conveyance of real property under this section shall, at the election of the Secretary, be for no consideration or for consideration in an amount determined by the Secretary to be appropriate under the circumstances.

(e) USE OF CONSIDERATION.—If consideration is received for the conveyance of real property under subsection (a), the Secretary may use the amounts received, in such amounts as are provided in appropriations Acts, to pay for—

(1) the cost of a survey described in subsection (f) with respect to the property;

(2) the cost of carrying out any environmental assessment, study, or analysis, and any remediation, that may be required under Federal law, or is considered appropriate by the Secretary, in connection with the property or the conveyance of the property; and

(3) any other costs incurred by the Secretary in conveying the property.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance of real property under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. LAND CONVEYANCE, FORT CAMPBELL, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Hopkinsville, Kentucky, all right, title, and interest of the United States in and to a parcel of real property at Fort Campbell, Kentucky, consisting of approximately 50 acres and containing an abandoned railroad spur for the purpose of permitting the City to use the property for storm water management, recreation, transportation, and other public purposes.

(b) DESCRIPTION OF PROPERTY.—The acreage of the real property to be conveyed under subsection (a) has been determined by the Secretary through a legal description outlining such acreage. No further survey of the property before transfer is necessary.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LAND CONVEYANCE, ARMY RESERVE TRAINING CENTER, BUFFALO, MINNESOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Buffalo Independent School District 877 of Buffalo, Minnesota (in this section referred to as the ''School District''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at 800 8th Street, N.E., in Buffalo, Minnesota, and contains a former Army Reserve Training Center, which is being used by the School District as the site of the Phoenix Learning Center.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. LAND CONVEYANCE, FORT BLISS, TEXAS

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the County of El Paso, Texas (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 44 acres at Fort Bliss, Texas, for the purpose of facilitating the construction by the State of Texas of a nursing home for veterans of the Armed Forces.

(b) REVERSIONARY INTEREST.—If, at the end of the five-year period beginning on the date the Secretary makes the conveyance under subsection (a), the Secretary determines that a nursing home for veterans is not in operation on the conveyed real property, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND CONVEYANCE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Veterans Land Board of the State of Texas (in this section referred to as the ''Board''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 174 acres at Fort Hood, Texas, for the purpose of permitting the Board to establish a State-run cemetery for veterans.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART II—NAVY CONVEYANCES

SEC. 2831. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the ENPEX Corporation, Incorporated (in this section referred to as the ''Corporation''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, at Marine Corps Air Station Miramar, San Diego, California, consisting of approximately 60 acres and appurtenant easements and any other necessary interests in real property for the purpose of permitting the Corporation to use the property for the production of electric power and related ancillary activities.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the Corporation shall—

(A) convey to the United States all right, title, and interest of the Corporation in and to a parcel of real property in the San Diego area that is suitable for military family housing, as determined by the Secretary; and

(B) if the parcel conveyed under subparagraph (A) does not contain housing units suitable for use as military family housing, design and construct such military family housing units and supporting facilities as the Secretary considers appropriate.

(2) The total combined value of the real property and military family housing conveyed by the Corporation under this subsection shall be at least equal to the fair market value of the real property conveyed to the Secretary under subsection (a), including any severance costs arising from any diminution of the value or utility of other property at Marine Corps Air Station Miramar attributable to the prospective future use of the property conveyed under subsection (a).

(3) The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and the fair market value of the consideration to be provided under this subsection. Such determinations shall be final.

(c) REVERSIONARY INTEREST.—(1) Subject to paragraph (2), if the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) If Marine Corps Air Station Miramar is no longer used as a Federal aviation facility, paragraph (1) shall no longer apply, and the Secretary shall release, without consideration, the reversionary interest retained by the United States under such paragraph.

(d) ADMINISTRATIVE EXPENSES.—(1) The Corporation shall make funds available to the Secretary to cover costs to be incurred by the Secretary, or reimburse the Secretary for costs incurred, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. This paragraph does not apply to costs associated with the removal of explosive ordnance from the parcel and environmental remediation of the parcel.

(2) Section 2695(c) of title 10 United States Code, shall apply to any amount received under paragraph (1). If the amounts received in advance under such paragraph exceed the costs actually incurred by the Secretary, the Secretary shall refund the excess amount to the Corporation.

(e) DESCRIPTIONS OF PROPERTY.—The exact acreage and legal descriptions of the real property to be conveyed by the Secretary under subsection (a) and the property to be conveyed by the Corporation under subsection (b) shall be determined by a survey satisfactory to the Secretary.

(f) EXEMPTIONS.—Section 2696 of title 10, United States Code, does not apply to the conveyance authorized by subsection (a), and the authority to make the conveyance shall not be considered to render the property excess or underutilized.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. BOUNDARY ADJUSTMENTS, MARINE CORPS BASE, QUANTICO, AND PRINCE WILLIAM FOREST PARK, VIRGINIA.

(a) BOUNDARY ADJUSTMENTS AND RELATED TRANSFERS.—(1) The Secretary of the Navy and the Secretary of the Interior shall adjust the boundaries of Marine Corps Base, Quantico, Virginia, and Prince William Forest Park, Virginia, to conform to the boundaries depicted on the map entitled ''Map Depicting Boundary Adjustments Proposed With March 10, 1998, MOU Between Prince William Forest Park and Marine Corps Base Quantico''.

(2) As part of the boundary adjustment, the Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior approximately 352 acres of land, as depicted on the map, and the Secretary of the Interior shall retain administrative jurisdiction over approximately 1,034 acres of land, which is a portion of the Department of Interior land commonly known as the Quantico Special Use Permit Land.

(3) As part of the boundary adjustment, the Secretary of the Interior shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Navy approximately 3398 acres of land, as depicted on the map.

(b) EFFECT OF SUBSEQUENT DETERMINATION PROPERTY IS EXCESS.—(1) If land transferred or retained under paragraph (2) or (3) of subsection (a) is subsequently determined to be excess to the needs of the Federal agency that received or retained the land, the head of that Federal agency shall offer to return administrative jurisdiction over the land, without reimbursement, to the Federal agency from which the land was received or retained.

(2) If the offer under paragraph (1) is not accepted within 90 days or is otherwise rejected, the head of the Federal agency holding the land may proceed to dispose of the land under then current law and regulations governing the disposal of excess property.

PART III—AIR FORCE CONVEYANCES

SEC. 2841. LAND CONVEYANCES, WENDOVER AIR FORCE BASE AUXILIARY FIELD, NEVADA.

(a) CONVEYANCES AUTHORIZED TO WEST WENDOVER, NEVADA.—(1) The Secretary of the Interior may convey, without consideration, to the City of West Wendover, Nevada, all right, title, and interest of the United States in and to the following:

(A) The lands at Wendover Air Force Base Auxiliary Field, Nevada, identified in Easement No. AFMC–HL–2–00–334 that are determined by the Secretary of the Air Force to be no longer required for Air Force purposes.

(B) The lands at Wendover Air Force Base Auxiliary Field identified for disposition on the map entitled ''West Wendover, Nevada–Excess'', dated January 5, 2001, that are determined by the Secretary of the Air Force to be no longer required for Air Force purposes.

(2) The purposes of the conveyances under this subsection are—

(A) to permit the establishment and maintenance of runway protection zones; and

(B) to provide for the development of an industrial park and related infrastructure.

(3) The map referred to in paragraph (1)(B) shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management and the Elko District Office of the Bureau of Land Management.

(b) CONVEYANCE AUTHORIZED TO TOOELE COUNTY, UTAH.—(1) The Secretary of the Interior may convey, without consideration, to Tooele County, Utah, all right, title, and interest of the United States in and to the lands at Wendover Air Force Base Auxiliary Field identified in Easement No. AFMC–HL–2–00–318 that are determined by the Secretary of the Air Force to be no longer required for Air Force purposes.

(2) The purpose of the conveyance under this subsection is to permit the establishment and maintenance of runway protection zones and an aircraft accident potential protection zone as necessitated by continued military aircraft operations at the Utah Test and Training Range.

(c) PHASED CONVEYANCES.—The land conveyances authorized by subsections (a) and (b) may be conducted in phases. To the extent practicable, the first phase of the conveyances should involve at least 3,000 acres.

(d) MANAGEMENT OF CONVEYED LANDS.—The lands conveyed under subsections (a) and (b) shall be managed by the City of West Wendover, Nevada, City of Wendover, Utah, Tooele County, Utah, and Elko County, Nevada—

(1) in accordance with the provisions of an Interlocal Memorandum of Agreement entered into between the Cities of West Wendover, Nevada, and Wendover, Utah, Tooele County, Utah, and Elko County, Nevada, providing for the coordinated management and development of the lands for the economic benefit of both communities; and

(2) in a manner that is consistent with such provisions of the easements referred to subsections (a) and (b) that, as jointly determined by the Secretary of the Air Force and Secretary of the Interior, remain applicable and relevant to the operation and management of the lands following conveyance and are consistent with the provisions of this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force and the Secretary of the Interior may jointly require such additional terms and conditions in connection with the conveyances required by subsections (a) and (b) as the Secretaries consider appropriate to protect the interests of the United States.

Subtitle D—Other Matters

SEC. 2861. EASEMENT FOR CONSTRUCTION OF ROADS OR HIGHWAYS, MARINE CORPS BASE, CAMP PENDLETON, CALIFORNIA.

Section 2851(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2219), as amended by section 2867 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1334) is amended in the first sentence by striking ''easement to construct'' and all that follows through the period at the end and inserting ''easement to construct, operate, and maintain a restricted access highway, notwithstanding any provision of State law that would otherwise prevent the Secretary from granting the easement or the Agency from constructing, operating, or maintaining the restricted access highway.''.

SEC. 2862. SALE OF EXCESS TREATED WATER AND WASTEWATER TREATMENT CAPACITY, MARINE CORPS BASE, CAMP LEJEUNE, NORTH CAROLINA.

(a) SALE AUTHORIZED.—The Secretary of the Navy may provide to Onslow County, North Carolina, or any authority or political subdivision organized under the laws of North Carolina to provide public water or sewage services in Onslow County (in this section referred to as the ''County''), treated water and wastewater treatment services from facilities at Marine Corps Base, Camp Lejeune, North Carolina, if the Secretary determines that the provision of these utility services is in the public interest and will not interfere with current or future operations at Camp Lejeune.

(b) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—Section 2686 of title 10, United States Code, shall not apply to the provision of public water or sewage services authorized by subsection (a).

(c) CONSIDERATION.—As consideration for the receipt of public water or sewage services under subsection (a), the County shall pay to the Secretary an amount (in cash or in kind) equal to the fair market value of the services. Amounts received in cash shall be credited to the base operation and maintenance accounts of Camp Lejeune.

(d) EXPANSION.—The Secretary may make minor expansions and extensions and permit

connections to the public water or sewage systems of the County in order to furnish the services authorized under subsection (a). The Secretary shall restrict the provision of services to the County to those areas in the County where residential development would be compatible with current and future operations at Camp Lejeune.

(e) ADMINISTRATIVE EXPENSES.—The Secretary may require the County to reimburse the Secretary for the costs incurred by the Secretary to provide public water or sewage services to the County under subsection (a).

(2) Section 2695(c) of title 10 United States Code, shall apply to any amount received under this subsection.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the provision of public water or sewage services under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2863. RATIFICATION OF AGREEMENT REGARDING ADAK NAVAL COMPLEX, ALASKA, AND RELATED LAND CONVEYANCES.

(a) RATIFICATION OF AGREEMENT.—The document entitled the ''Agreement Concerning the Conveyance of Property at the Adak Naval Complex'', and dated September 20, 2000, executed by the Aleut Corporation, the Department of the Interior, and the Department of the Navy, together with any technical amendments or modifications to the boundaries that may be agreed to by the parties, is hereby ratified, confirmed, and approved and the terms, conditions, procedures, covenants, reservations, indemnities and other provisions set forth in the Agreement are declared to be obligations and commitments of the United States as a matter of Federal law. Modifications to the maps and legal descriptions of lands to be removed from the National Wildlife Refuge System within the military withdrawal on Adak Island set forth in Public Land Order 1949 may be made only upon agreement of all Parties to the Agreement and notification given to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The acreage conveyed to the United States by the Aleut Corporation under the Agreement, as modified, shall be at least 36,000 acres.

(b) REMOVAL OF LANDS FROM REFUGE.—Effective on the date of conveyance to the Aleut Corporation of the Adak Exchange Lands as described in the Agreement, all such lands shall be removed from the National Wildlife Refuge System and shall neither be considered as part of the Alaska Maritime National Wildlife Refuge nor subject to any laws pertaining to lands within the boundaries of the Alaska Maritime National Wildlife Refuge. The conveyance restrictions imposed by section 22(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(g)) for land in the National Wildlife Refuge System shall not apply. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands and land rights, surface and subsurface, received by the Aleut Corporation in accordance with this section and the Agreement.

(c) RELATION TO ALASKA NATIVE CLAIMS SETTLEMENT ACT.—Lands and interests therein exchanged and conveyed by the United States pursuant to this section shall be considered and treated as conveyances of lands or interests therein under the Alaska Native Claims Settlement Act, except that receipt of such lands and interests therein shall not constitute a sale or disposition of land or interests received pursuant to such Act. The public easements for access to public lands and waters reserved pursuant to the Agreement are deemed to satisfy the requirements and purposes of section 17(b) of the Alaska Native Claims Settlement Act.

(d) REACQUISITION AUTHORITY.—The Secretary of the Interior is authorized to acquire by purchase or exchange, on a willing seller basis only, any land conveyed to the Aleut Corporation under the Agreement and this section. In the event any of the lands are subsequently acquired by the United States, they shall be automatically included in the National Wildlife Refuge System. The laws and regulations applicable to refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

(e) CONVEYANCE OF NAVY PERSONAL PROPERTY.—Notwithstanding any other provision of law, and for the purposes of the transfer of property authorized by this section, Department of Navy personal property that remains on Adak Island is deemed related to the real property and shall be conveyed by the Department of the Navy to the Aleut Corporation, at no additional cost, when the related real property is conveyed by the Department of the Interior.

(f) ADDITIONAL CONVEYANCE.—The Secretary of the Interior shall convey to the Aleut Corporation those lands identified in the Agreement as the former landfill sites without charge to the Aleut Corporation's entitlement under the Alaska Native Claims Settlement Act.

(g) VALUATION.—For purposes of section 21(c) of the Alaska Native Claims Settlement Act, the receipt of all property by the Aleut Corporation shall be entitled to a tax basis equal to fair value on date of transfer. Fair value shall be determined by replacement cost appraisal.

(h) CERTAIN PROPERTY TREATED AS NOT DEVELOPED.—Any property, including, but not limited to, appurtenances and improvements, received pursuant to this section shall, for purposes of section 21(d) of the Alaska Native Claims Settlement Act and section 907(d) of the Alaska National Interest Lands Conservation Act be treated as not developed until such property is actually occupied, leased (other than leases for nominal consideration to public entities) or sold by the Aleut Corporation, or, in the case of a lease or other transfer by the Aleut Corporation to a wholly owned development subsidiary, actually occupied, leased, or sold by the subsidiary.

(i) CERTAIN LANDS UNAVAILABLE FOR SELECTION.—Upon conveyance to the Aleut Corporation of the lands described in Appendix A of the Agreement, the lands described in Appendix C of the Agreement will become unavailable for selection under the Alaska Native Claims Settlement Act.

(j) MAPS.—The maps included as part of Appendix A to the Agreement depict the lands to be conveyed to the Aleut Corporation. The maps are on file at the Region 7 Office of the United States Fish and Wildlife Service and the offices of the Alaska Maritime National Wildlife Refuge in Homer, Alaska. The written legal descriptions of the lands to be conveyed to the Aleut Corporation are also part of Appendix A. In case of discrepancies, the maps shall control.

(k) DEFINITIONS.—In this section:

(1) The term ''Agreement'' means the agreement ratified, confirmed, and approved under subsection (a).

(2) The term ''Aleut Corporation'' means the Alaskan Native Regional Corporation known as the Aleut Corporation incorporated in the State of Alaska pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 2864. SPECIAL REQUIREMENTS FOR ADDING MILITARY INSTALLATION TO CLOSURE LIST.

Section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 155 Stat, 1346), is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

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

''(4) LIMITATION ON AUTHORITY TO RECOMMEND ADDITIONAL INSTALLATION FOR CLOSURE.—Notwithstanding paragraph (3), the decision of the Commission to add a military installation to the Secretary's list of installations recommended for closure must be unanimous, and at least two members of the Commission must have visited the installation during the period of the Commission's review of the list.''.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $8,034,349,000, to be allocated as follows:

(1) For weapons activities, $5,937,000,000.

(2) For defense nuclear nonproliferation activities, $1,074,630,000.

(3) For naval reactors, $706,790,000.

(4) For the Office of the Administrator for Nuclear Security, $315,929,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary may carry out new plant projects as follows:

(1) For weapons activities, the following new plant projects:

Project 03–D–101, Sandia underground reactor facility (SURF), Sandia National Laboratories, Albuquerque, New Mexico, $2,000,000.

Project 03–D–103, project engineering and design, various locations, $15,539,000.

Project 03–D–121, gas transfer capacity expansion, Kansas City Plant, Kansas City, Missouri, $4,000,000.

Project 03–D–122, prototype purification facility, Y–12 plant, Oak Ridge, Tennessee, $20,800,000.

Project 03–D–123, special nuclear materials requalification, Pantex plant, Amarillo, Texas, $3,000,000.

(2) For naval reactors, the following new plant project:

Project 03–D–201, cleanroom technology facility, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $7,200,000.

SEC. 3102. ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for environmental restoration and waste management activities and other defense activities in carrying out programs necessary for national security in the amount of $7,366,510,000, to be allocated as follows:

(1) For defense environmental restoration and waste management, $4,544,133,000.

(2) For defense environmental management cleanup reform in carrying out environmental restoration and waste management activities necessary for national security programs, $800,000,000.

(3) For defense facilities closure projects, $1,091,314,000.

(4) For defense environmental management privatization, $158,399,000.

(5) For other defense activities in carrying out programs necessary for national security, $457,664,000.

(6) For defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)), $315,000,000.

(b) AUTHORIZATION OF NEW PLANT PROJECT.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary may carry out, for environmental restoration and waste management activities, the following new plant project:

Project 03–D–403, immobilized high-level waste interim storage facility, Richland, Washington, $6,363,000.

Subtitle B—Department of Energy National Security Authorizations General Provisions

SEC. 3120. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Department of Energy National Security Authorizations General Provisions Act''.

(b) DEFINITIONS.—In this subtitle:

(1) The term ''DOE national security authorization'' means an authorization of appropriations for activities of the Department of Energy in carrying out programs necessary for national security.

(2) The term ''congressional defense committees'' means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(3) The term ''minor construction threshold'' means $5,000,000.

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Except as provided in sections 3129 and 3130, the Secretary of Energy may not use amounts appropriated pursuant to a DOE national security authorization for a program—

(1) in amounts that exceed, in a fiscal year, the amount authorized for that program by that authorization for that fiscal year; or

(2) which has not been presented to, or requested of, Congress,

until the Secretary submits to the congressional defense committees a report referred to in subsection (b) with respect to that program and a period of 30 days has elapsed after the date on which such committees receive the report.

(b) REPORT.—The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(c) COMPUTATION OF DAYS.—In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(d) LIMITATIONS.—

(1) TOTAL AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to a DOE national security authorization for a fiscal year exceed the total amount authorized to be appropriated by that authorization for that fiscal year.

(2) PROHIBITED ITEMS.—Funds appropriated pursuant to a DOE national security authorization may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. MINOR CONSTRUCTION PROJECTS.

(a) AUTHORITY.—Using operation and maintenance funds or facilities and infrastructure funds authorized by a DOE national security authorization, the Secretary of Energy may carry out minor construction projects.

(b) ANNUAL REPORT.—The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding fiscal year. Each report shall provide a brief description of each minor construction project covered by the report.

(c) COST VARIATION REPORTS TO CONGRESSIONAL COMMITTEES.—If, at any time during the construction of any minor construction project authorized by a DOE national security authorization, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.

(d) MINOR CONSTRUCTION PROJECT DEFINED.—In this section, the term ''minor construction project'' means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—

(1) CONSTRUCTION COST CEILING.—Except as provided in paragraph (2), construction on a construction project which is in support of national security programs of the Department of Energy and was authorized by a DOE national security authorization may not be started, and additional obligations in connection with the project above the total estimated cost may not be incurred, whenever the current estimated cost of the construction project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) COMPUTATION OF DAYS.—In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(b) EXCEPTION FOR MINOR PROJECTS.—Subsection (a) does not apply to a construction project with a current estimated cost of less than the minor construction threshold.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—

(1) TRANSFERS PERMITTED.—Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) MAXIMUM AMOUNTS.—Not more than 5 percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(c) LIMITATIONS.—The authority provided by this subsection to transfer authorizations—

(1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of any transfer of funds to or from any DOE national security authorization.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT OF CONCEPTUAL DESIGN.—

(1) IN GENERAL.—Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) REQUESTS FOR CONCEPTUAL DESIGN FUNDS.—If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) EXCEPTIONS.—The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than the minor construction threshold; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—

(1) IN GENERAL.—Within the amounts authorized by a DOE national security authorization, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) SPECIFIC AUTHORITY REQUIRED.—If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for that design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to a DOE national security authorization, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of a construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to a DOE national security authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (b), amounts appropriated for operation and maintenance or for plant projects may, when so specified in an appropriations Act, remain available until expended.

(b) EXCEPTION FOR NNSA FUNDS.—Amounts appropriated for the National Nuclear Security Administration pursuant to a DOE national security authorization for a fiscal year shall remain available to be expended—

(1) only until the end of that fiscal year, in the case of amounts appropriated for the Office of the Administrator for Nuclear Security; and

(2) only in that fiscal year and the two succeeding fiscal years, in all other cases.

SEC. 3129. TRANSFER OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—

(1) NUMBER OF TRANSFERS.—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) AMOUNTS TRANSFERRED.—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) DETERMINATION REQUIRED.—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary—

(A) to address a risk to health, safety, or the environment; or

(B) to assure the most efficient use of defense environmental management funds at the field office.

(4) IMPERMISSIBLE USES.—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section—

(1) the term ''program or project'' means, with respect to a field office of the Department of Energy, a program or project that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental management funds have been authorized and appropriated; and

(2) the term ''defense environmental management funds'' means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

SEC. 3130. TRANSFER OF WEAPONS ACTIVITIES FUNDS.

(a) TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—

(1) NUMBER OF TRANSFERS.—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) AMOUNTS TRANSFERRED.—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) DETERMINATION REQUIRED.—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer—

(A) is necessary to address a risk to health, safety, or the environment; or

(B) will result in cost savings and efficiencies.

(4) LIMITATION.—A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.

(5) IMPERMISSIBLE USES.—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Administrator for Nuclear Security, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section—

(1) the term ''program or project'' means, with respect to a field office of the Department of Energy, a program or project that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated; and

(2) the term ''weapons activities funds'' means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

SEC. 3131. SCOPE OF AUTHORITY TO CARRY OUT PLANT PROJECTS.

In carrying out programs necessary for national security, the authority of the Secretary of Energy to carry out plant projects includes authority for maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3141. ONE-YEAR EXTENSION OF PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE.

Section 3159 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (42 U.S.C. 2121 note) is amended—

(1) in subsection (d), by striking ''February 1, 2002,'' and inserting ''February 1 of 2002 and 2003,''; and

(2) in subsection (g), by striking ''three years'' and all that follows through the period at the end and inserting ''April 1, 2003.''.

SEC. 3142. TRANSFER TO NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF DEFENSE'S COOPERATIVE THREAT REDUCTION PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM IN RUSSIA.

(a) TRANSFER OF PROGRAM.—There are hereby transferred to the Administrator for Nuclear Security the following:

(1) The program, within the Cooperative Threat Reduction program of the Department of Defense, relating to the elimination of weapons grade plutonium in Russia.

(2) All functions, powers, duties, and activities of that program performed before the date of the enactment of this Act by the Department of Defense.

(b) TRANSFER OF ASSETS.—(1) So much of the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the program transferred by subsection (a) are transferred to the Administrator for use in connection with the program transferred.

(2) Funds so transferred—

(A) shall be credited to the appropriation account of the Department of Energy for the activities of the National Nuclear Security Administration in carrying out defense nuclear nonproliferation activities; and

(B) remain subject to such limitations as applied to such funds before such transfer.

(c) REFERENCES.—Any reference in any other Federal law to the Secretary of Defense (or an officer of the Department of Defense) or the Department of Defense shall, to the extent such reference pertains to a function transferred by this section, be deemed to refer to the Administrator for Nuclear Security or the National Nuclear Security Administration, as applicable.

SEC. 3143. REPEAL OF REQUIREMENT FOR REPORTS ON OBLIGATION OF FUNDS FOR PROGRAMS ON FISSILE MATERIALS IN RUSSIA.

Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617; 22 U.S.C. 5952 note) is amended—

(1) in subsection (a), by striking ''(a) AUTHORITY.—''; and

(2) by striking subsection (b).

SEC. 3144. ANNUAL CERTIFICATION TO THE PRESIDENT AND CONGRESS ON THE CONDITION OF THE UNITED STATES NUCLEAR WEAPONS STOCKPILE.

(a) CERTIFICATION REQUIRED.—(1) Not later than January 15 of each year, each official specified in subsection (b)(1) shall submit to the Secretary concerned a certification regarding the safety, reliability, and performance of each nuclear weapon type in the active stockpile of the United States for which such official is responsible.

(2) Not later than February 1 of each year, the Secretary of Defense and the Secretary of Energy shall each submit to the President and the Congress—

(A) each certification, without change, submitted under paragraph (1) to that Secretary;

(B) each report, without change, submitted under subsection (d) to that Secretary;

(C) the comments of that Secretary with respect to each such certification and each such report; and

(D) any other information that the Secretary considers appropriate.

(b) COVERED OFFICIALS AND SECRETARIES.—(1) The officials referred to in subsection (a) are the following:

(A) The head of each national security laboratory, as defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).

(B) The commander of the United States Strategic Command.

(2) In this section, the term ''Secretary concerned'' means—

(A) the Secretary of Energy, with respect to matters concerning the Department of Energy; and

(B) the Secretary of Defense, with respect to matters concerning the Department of Defense.

(c) USE OF ''RED TEAMS'' FOR LABORATORY CERTIFICATIONS.—The head of each national security laboratory shall, to assist in the certification process required by subsection (a), establish one or more teams of experts known as ''red teams''. Each such team shall—

(1) subject to challenge the matters covered by that laboratory's certification, and submit the results of such challenge, together with findings and recommendations, to the head of that laboratory; and

(2) carry out peer review of the certifications carried out by the other laboratories, and submit the results of such peer review to the head of the laboratory concerned.

(d) REPORT ACCOMPANYING CERTIFICATION.—Each official specified in subsection (b)(1) shall submit with each such certification a report on the stockpile stewardship and management program of the Department of Energy. The report shall include the following:

(1) An assessment of the adequacy of the science-based tools and methods being used to determine the matters covered by the certification.

(2) An assessment of the capability of the manufacturing infrastructure required by section 3137 of the National Defense Authorization

Act for Fiscal Year 1996 (42 U.S.C. 2121 note) to identify and fix any inadequacy with respect to the matters covered by the certification.

(3) An assessment of the need of the United States to resume testing of nuclear weapons and the readiness of the United States to resume such testing, together with an identification of the specific tests the conduct of which might have value and the anticipated value of conducting such tests.

(4) An identification and discussion of any other matter that adversely affects the ability to accurately determine the matters covered by the certification.

(5) In the case of a report submitted by the head of a national security laboratory, the findings and recommendations submitted by the ''red teams'' under subsection (c) that relate to such certification, and a discussion of those findings and recommendations.

(6) In the case of a report submitted by the head of a national security laboratory, a discussion of the relative merits of other weapon types that could accomplish the mission of the weapon type covered by such certification.

(e) CLASSIFIED FORM.—Each submission required by this section shall be made only in classified form.

SEC. 3145. PLAN FOR ACHIEVING ONE-YEAR READINESS POSTURE FOR RESUMPTION BY THE UNITED STATES OF UNDERGROUND NUCLEAR WEAPONS TESTS.

(a) PLAN REQUIRED.—The Secretary of Energy, in consultation with the Administrator for Nuclear Security, shall prepare a plan for achieving, not later than one year after the date on which the plan is submitted under subsection (c), a one-year readiness posture for resumption by the United States of underground nuclear weapons tests.

(b) DEFINITION.—For purposes of this section, a one-year readiness posture for resumption by the United States of underground nuclear weapons tests is achieved when the Department of Energy has the capability to resume such tests, if directed by the President to resume such tests, not later than one year after the date on which the President so directs.

(c) REPORT.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2004 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the plan required by subsection (a). The report shall include the plan and a budget for implementing the plan.

Subtitle D—Matters Relating to Defense Environmental Management

SEC. 3151. DEFENSE ENVIRONMENTAL MANAGEMENT CLEANUP REFORM PROGRAM.

(a) PROGRAM REQUIRED.—From funds made available pursuant to section 3102(a)(2) for defense environmental management cleanup reform, the Secretary of Energy shall carry out a program to reform DOE environmental management activities. In carrying out the program, the Secretary shall allocate, to each site for which the Secretary has submitted to the congressional defense committees a site performance management plan, the amount of those funds that such plan requires.

(b) TRANSFER AND MERGER OF FUNDS.—Funds so allocated shall, notwithstanding section 3124, be transferred to the account for DOE environmental management activities and, subject to subsection (c), shall be merged with and be available for the same purposes and for the same period as the funds available in such account. The authority provided by section 3129 shall apply to funds so transferred.

(c) LIMITATION ON USE OF ALL MERGED FUNDS.—Upon a transfer and merger of funds under subsection (b), all funds in the merged account that are available with respect to the site may be used only to carry out the site performance management plan for such site.

(d) SITE PERFORMANCE MANAGEMENT PLAN DEFINED.—For purposes of this section, a site performance management plan for a site is a plan, agreed to by the applicable Federal and State agencies with regulatory jurisdiction with respect to the site, for the performance of activities to accelerate the reduction of environmental risk in connection with, and to accelerate the environmental cleanup of, the site.

(e) DOE ENVIRONMENTAL MANAGEMENT ACTIVITIES DEFINED.—For purposes of this section, the term ''DOE environmental management activities'' means environmental restoration and waste management activities of the Department of Energy in carrying out programs necessary for national security.

SEC. 3152. REPORT ON STATUS OF ENVIRONMENTAL MANAGEMENT INITIATIVES TO ACCELERATE THE REDUCTION OF ENVIRONMENTAL RISKS AND CHALLENGES POSED BY THE LEGACY OF THE COLD WAR.

(a) REPORT REQUIRED.—The Secretary of Energy shall prepare a report on the status of those environmental management initiatives specified in subsection (b) that are being undertaken to accelerate the reduction of the environmental risks and challenges that, as a result of the legacy of the Cold War, are faced by the Department of Energy, contractors of the Department, and applicable Federal and State agencies with regulatory jurisdiction.

(b) CONTENTS.—The report shall include the following matters:

(1) A discussion of the progress made in reducing such risks and challenges in each of the following areas:

(A) Acquisition strategy and contract management.

(B) Regulatory agreements.

(C) Interim storage and final disposal of high-level waste, spent nuclear fuel, transuranic waste, and low-level waste.

(D) Closure and transfer of environmental remediation sites.

(E) Achievements in innovation by contractors of the Department with respect to accelerated risk reduction and cleanup.

(F) Consolidation of special nuclear materials and improvements in safeguards and security.

(2) An assessment of the progress made in streamlining risk reduction processes of the environmental management program of the Department.

(3) An assessment of the progress made in improving the responsiveness and effectiveness of the environmental management program of the Department.

(4) Any proposals for legislation that the Secretary considers necessary to carry out such initiatives, including the justification for each such proposal.

(c) INITIATIVES COVERED.—The environmental management initiatives referred to in subsection (a) are the initiatives arising out of the report titled ''Top-to-Bottom Review of the Environmental Management Program'' and dated February 4, 2002, with respect to the environmental restoration and waste management activities of the Department of Energy in carrying out programs necessary for national security.

(d) SUBMISSION OF REPORT.—On the date on which the budget justification materials in support of the Department of Energy budget for fiscal year 2004 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) are submitted to Congress, the Secretary shall submit to the congressional defense committees the report required by subsection (a).

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2003, $19,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2003, the National Defense Stockpile Manager may obligate up to $76,400,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $21,069,000 for fiscal year 2003 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2003.

Funds are hereby authorized to be appropriated for fiscal year 2003, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $93,132,000.

(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), $54,126,000, of which—

(A) $50,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) $4,126,000 is for administrative expenses related to loan guarantee commitments under the program.

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402 (as amended by this title), $20,000,000.

SEC. 3502. AUTHORITY TO CONVEY VESSEL USS SPHINX (ARL–24).

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel USS SPHINX (ARL–24), to the Dunkirk Historical Lighthouse and Veterans Park Museum (a not-for-profit corporation, in this section referred to as the ''recipient'') for use as a military museum, if—

(1) the recipient agrees to use the vessel as a nonprofit military museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a military museum—

(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State of New York, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4); and

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this Act, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS SPHINX (ARL–24) to museum quality.

(d) RETENTION OF VESSEL IN NDRF.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(1) 2 years after the date of the enactment of this Act; or

(2) the date of conveyance of the vessel under subsection (a).

SEC. 3503. FINANCIAL ASSISTANCE TO STATES FOR PREPARATION OF TRANSFERRED OBSOLETE SHIPS FOR USE AS ARTIFICIAL REEFS.

(a) IN GENERAL.—Public Law 92–402 (16 U.S.C. 1220 et seq.) is amended by redesignating section 7 as section 8, and by inserting after section 6 the following:

"SEC. 7. FINANCIAL ASSISTANCE TO STATE TO PREPARE TRANSFERRED SHIP.

''(a) ASSISTANCE AUTHORIZED.—The Secretary, subject to the availability of appropriations, may provide, to any State to which an obsolete ship is transferred under this Act, financial assistance to prepare the ship for use as an artificial reef, including for—

''(1) environmental remediation;

''(2) towing; and

''(3) sinking.

''(b) AMOUNT OF ASSISTANCE.—The Secretary shall determine the amount of assistance under this section with respect to an obsolete ship based on—

''(1) the total amount available for providing assistance under this section;

''(2) the benefit achieved by providing assistance for that ship; and

''(3) the cost effectiveness of disposing of the ship by transfer under this Act and provision of assistance under this section, compared to other disposal options for the vessel.

''(c) TERMS AND CONDITIONS.—The Secretary—

''(1) shall require a State seeking assistance under this section to provide cost data and other information determined by the Secretary to be necessary to justify and document the assistance; and

''(2) may require a State receiving such assistance to comply with terms and conditions necessary to protect the environment and the interests of the United States.''.

(b) CONFORMING AMENDMENT.—Section 4(4) of such Act (16 U.S.C. 1220a(4)) is amended by inserting ''(except for any financial assistance provided under section 7)'' after ''at no cost to the Government''.

SEC. 3504. INDEPENDENT ANALYSIS OF TITLE XI INSURANCE GUARANTEE APPLICATIONS.

Section 1104A of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274) is amended—

(1) by adding at the end of subsection (d) the following:

''(4) The Secretary may obtain independent analysis of an application for a guarantee or commitment to guarantee under this title.''; and

(2) in subsection (f) by inserting ''(including for obtaining independent analysis under subsection (d)(4))'' after ''applications for a guarantee''.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 107–450 and amendments en bloc described in section 3 of House Resolution 415.

Except as specified in section 4 of the resolution, each amendment printed in the report shall be considered only in the order printed, may be offered only by a Member designated in the report, shall be considered read, and shall not be subject to a demand for a division of the question.

Unless otherwise specified in the report, each amendment printed in the report shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment, except as specified in the report and except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment.

It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in part B of the report not earlier disposed of or germane modifications of any such amendment.

Amendments en bloc shall be considered read, except that modifications shall be reported, shall be debatable for 40 minutes, equally divided and controlled by the chairman and ranking minority member or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The original proponent of an amendment included in the amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may recognize for consideration of any amendment out of the order printed, but not sooner than 1 hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

AMENDMENTS EN BLOC OFFERED BY MR. STUMP

Mr. STUMP. Mr. Chairman, I offer amendments en bloc consisting of the following amendments printed in part B of House Report 107–450: amendment No. 11, amendment No. 12, amendment No. 13, amendment No. 14, amendment No. 16, amendment No. 17, amendment No. 18, amendment No. 19, amendment No. 20, amendment No. 22 offered by the gentleman from Arkansas (Mr. SNYDER), amendment No. 23, amendment No. 24, and amendment No. 22 offered by the gentleman from Kansas (Mr. TIAHRT).

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendment No. 11 offered by Mr. CULBERSON:

At the end of title X (page 218, after line 15), insert the following new section:

SEC. ___. USE FOR LAW ENFORCEMENT PURPOSES OF DNA SAMPLES MAINTAINED BY DEPARTMENT OF DEFENSE FOR IDENTIFICATION OF HUMAN REMAINS.

(a) IN GENERAL.—Chapter 80 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1566. DNA samples maintained for identification of human remains: use for law enforcement purposes

''(a) COMPLIANCE WITH COURT ORDER.—(1) Subject to paragraph (2), if a valid order of a Federal court (or military judge) so requires, an element of the Department of Defense that maintains a repository of DNA samples for the purpose of identification of human remains shall make available, for the purpose specified in subsection (b), such DNA samples on such terms and conditions as such court (or military judge) directs.

''(2) A DNA sample with respect to an individual shall be provided under paragraph (1) in a manner that does not compromise the ability of the Department of Defense to maintain a sample with respect to that individual for the purpose of identification of human remains.

''(b) COVERED PURPOSE.—The purpose referred to in subsection (a) is the purpose of an investigation or prosecution of a felony, or any sexual offense, for which no other source of DNA information is available.

''(c) DEFINITION.—In this section, the term 'DNA sample' has the meaning given such term in section 1565(c) of this title.''.

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

"§ 1566. DNA samples maintained for identification of human remains: use for law enforcement purposes.".

Amendment No. 12 offered by Mrs. JO ANN DAVIS of Virginia:

At the end of title X (page 218, after line 15), insert the following new section:

SEC. ___. SENSE OF CONGRESS CONCERNING AIRCRAFT CARRIER FORCE STRUCTURE.

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

(1) The aircraft carrier has been an integral component in Operation Enduring Freedom and in the homeland defense mission beginning on September 11, 2001. The aircraft carriers that have participated in Operation Enduring Freedom, as of May 1, 2002, are the USS Enterprise (CVN–65), the USS Carl Vinson (CVN–70), the USS Kitty Hawk (CV–63),

the USS Theodore Roosevelt (CVN–71), the USS John C. Stennis (CVN–74), and the USS John F. Kennedy (CV–67). The aircraft carriers that have participated in the homeland defense mission are the USS George Washington (CVN–73), the USS John F. Kennedy (CV–67), and the USS John C. Stennis (CVN–74).

(2) Since 1945, the United States has built 172 bases overseas, of which only 24 are currently in use.

(3) The aircraft carrier provides an independent base of operations should no land base be available for aircraft.

(4) The aircraft carrier is an essential component of the Navy.

(5) Both the F/A–18E/F aircraft program and the Joint Strike Fighter aircraft program are proceeding on schedule for deployment on aircraft carriers.

(6) As established by the Navy, the United States requires the service of 15 aircraft carriers to completely fulfill all the naval commitments assigned to it without gapping carrier presence.

(7) The Navy requires, at a minimum, at least 12 carriers to accomplish its current missions.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the number of aircraft carriers of the Navy in active service should not be less than 12.

(c) COMMENDATION OF CREWS.—Congress hereby commends the crews of the aircraft carriers that have participated in Operation Enduring Freedom and the homeland defense mission.

Amendment No. 13 offered by Mr. FARR of California:

At the end of title X (page 218, after line 15), insert the following new section:

SEC. ____. ENHANCED AUTHORITY TO OBTAIN FOREIGN LANGUAGE SERVICES DURING PERIODS OF EMERGENCY.

(a) NATIONAL FOREIGN LANGUAGE SKILLS REGISTRY.—(1) The Secretary of Defense may establish and maintain a secure data registry to be known as the ''National Foreign Language Skills Registry''. The data registry shall consist of the names of, and other pertinent information on, linguistically qualified United States citizens and permanent resident aliens who state that they are willing to provide linguistic services in times of emergency designated by the Secretary of Defense to assist the Department of Defense and other Departments and agencies of the United States with translation and interpretation in languages designated by the Secretary of Defense as critical languages.

(2) The name of a person may be included in the Registry only if the person expressly agrees for the person's name to be included in the Registry. Any such agreement shall be made in such form and manner as may be specified by the Secretary.

(b) AUTHORITY TO ACCEPT VOLUNTARY TRANSLATION AND INTERPRETATION SERVICES.—Section 1588(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) Language translation and interpretation services.''.

Amendment No. 14 offered by Mr. HEFLEY:

Strike section 351 (page 68, beginning line 2), and insert the following new section:

SEC. 351. AUTHORIZED DURATION OF BASE CONTRACT FOR NAVY-MARINE CORPS INTRANET.

Section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398 (114 Stat. 1654A–215) and amended by section 362 of Public Law 107–107 (115 Stat. 1065), is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

''(i) DURATION OF BASE NAVY-MARINE CORPS INTRANET CONTRACT.—Notwithstanding section 2306c of title 10, United States Code, the base contract of the Navy-Marine Corps Intranet contract may have a term in excess of five years, but not more than seven years.''.

Amendment No. 16 offered by Mr. MANZULLO:

At the end of title VIII (page 174, after line 5), add the following new section:

SEC. ____. RENEWAL OF CERTAIN PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENTS AT FUNDING LEVELS AT LEAST SUFFICIENT TO SUPPORT EXISTING PROGRAMS.

Section 2413 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) With respect to any eligible entity that has successfully performed under a cooperative agreement entered into under subsection (a), the Secretary shall strive, to the greatest extent practicable and subject to appropriations, to renew such agreement with such entity at a level of funding which is at least equal to the level of funding under the cooperative agreement being renewed.''.

Amendment No. 17 offered by Mr. ORTIZ:

At the end of subtitle B of title I (page 21, after line 20), insert the following new section:

SEC. ____. PROHIBITION ON ACQUISITION OF CHAMPION-CLASS, T-5 FUEL TANKERS.

(a) PROHIBITION.—Except as provided in subsection (b), a Champion-class fuel tanker, known as a T-5, which features a double hull and reinforcement against ice damage, may not be acquired for the Military Sealift Command or for other Navy purposes.

(b) TERMINATION.—The prohibition in subsection (a) shall not apply if the acquisition of a T-5 tanker is specifically authorized in a defense authorization Act that—

(1) is enacted after the date of the enactment of this Act;

(2) specifically refers to subsection (a); and

(3) specifically states that the prohibition in such subsection does not apply.

Amendment No. 18 offered by Mr. PALLONE:

Page 312, after line 15, insert the following new section:

SEC. 2826. LAND CONVEYANCE, FORT MONMOUTH, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey by sale all right, title, and interest of the United States in and to a parcel of land, consisting of approximately 63.95 acres of military family housing known as Howard Commons, that comprises a portion of Fort Monmouth, New Jersey.

(b) COMPETITIVE BID REQUIREMENT.—The Secretary shall use competitive procedures for the sale authorized by subsection (a).

(c) CONSIDERATION.—As consideration for the conveyance authorized under subsection (a), the recipient of the land shall pay an amount that is no less than fair market value, as determined by the Secretary. Such recipient may, as in-kind consideration, build replacement military family housing or rehabilitate existing military family housing at Fort Monmouth, New Jersey, as agreed upon by the Secretary. Any proceeds received by the Secretary not used to construct or rehabilitate such military family housing shall be deposited in the special account in the Treasury established pursuant to section 204(h) of the Federal property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) DESCRIPTION OF PARCEL.—The exact acreage and legal description of the parcel to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the recipient of the parcel.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Amendment No. 19 offered by Mr. SAXTON:

At the end of title X (page 218, after line 15), insert the following new section:

SEC. ____. SURFACE COMBATANT INDUSTRIAL BASE.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the effect of the contract award announced on April 29, 2002, for the lead design agent for the DD(X) ship program on the industrial base for ship combat system development, including the industrial base for each of the following: ship systems integration, radar, electronic warfare, launch systems, and other components.

(b) REPORT REQUIRED.—Not later than March 31, 2003, the Secretary shall submit to the congressional defense committees a report based on the review under subsection (a). The report shall provide the Secretary's assessment of the effect of that contract award on the ship combat system technology and industrial base and shall describe any actions that the Secretary proposes to ensure future competition across the array of technologies that encompass the combat systems of future surface ships, including the next generation cruiser (CG(X)), the littoral combat ship (LCS), and the joint command ship (JCC(X)).

Amendment No. 20 offered by Mr. SCHROCK:

At the end of subtitle A of title XXVIII (page 292, after line 7), insert the following new section:

SEC. ____. PILOT HOUSING PRIVATIZATION AUTHORITY FOR ACQUISITION OR CONSTRUCTION OF MILITARY UNACCOMPANIED HOUSING.

(a) IN GENERAL.—(1) Subchapter IV of chapter 169 of title 10, United States Code, is amended by inserting after section 2881 the following new section:

''§ 2881a. Pilot projects for acquisition or construction of military unaccompanied housing

''(a) PILOT PROJECTS AUTHORIZED.—The Secretary of the Navy may carry out not more than 3 pilot projects under the authority of this section or another provision of this subchapter to use the private sector for the acquisition or construction of military unaccompanied housing in the United States, including any territory or possession of the United States.

''(b) ASSIGNMENT OF MEMBERS AND BASIC ALLOWANCE FOR HOUSING.—(1) The Secretary of the Navy may assign members of the armed forces to housing units acquired or constructed under the pilot projects, and such housing units shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403 of title 37.

''(2) Notwithstanding section 403(n)(2) of title 37, the Secretary of Defense may set specific higher rates of partial basic allowance for housing for a member of the armed forces who is assigned to a housing unit acquired or constructed under the pilot projects. Any increase in the rate of partial basic allowance for housing to accommodate the pilot programs shall be in addition to any partial basic allowance for housing that the member may otherwise be eligible to receive under section 403(n) of title 37. A member may not sustain a reduction in partial basic allowance for housing as a result of assignment to a housing unit acquired or constructed under the pilot projects.

''(c) FUNDING.—(1) The Department of Defense Housing Improvement Fund shall be used to carry out activities under the pilot projects.

''(2) Subject to 90 days prior notification to the appropriate committees of Congress, such additional amounts as the Secretary of Defense considers necessary may be transferred to the Department of Defense Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing projects in military construction accounts. The amounts so transferred shall be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund.

''(d) REPORTS.—(1) The Secretary of the Navy shall transmit to the appropriate committees of Congress a report describing—

''(A) each contract for the acquisition of military unaccompanied housing that the Secretary proposes to solicit under the pilot projects;

''(B) each conveyance or lease proposed under section 2878 of this title in furtherance of the pilot projects; and

''(C) the proposed partial basic allowance for housing rates for each contract as they vary by grade of the member and how they compare to basic allowance for housing rates for other contracts written under the authority of the pilot programs.

''(2) The report shall describe the proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation. The report shall be submitted not later than 90 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

''(e) EXPIRATION.—Notwithstanding section 2885 of this title, the authority of the Secretary of the Navy to enter into a contract under the pilot programs shall expire September 30, 2007.''.

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2881 the following new item:

''2881a. Pilot projects for acquisition or construction of military unaccompanied housing.''.

(b) CONFORMING AMENDMENT.—Section 2871(7) of title 10, United States Code, is amended by inserting before the period at the end the following: ''and transient housing intended to be occupied by members of the armed forces on temporary duty''.

Amendment No. 22 offered by Mr. SNYDER:

At the end of title IX (page 179, after line 21), insert the following new section:

SEC. 9___. AUTHORITY TO ACCEPT GIFTS FOR NATIONAL DEFENSE UNIVERSITY.

(a) IN GENERAL.—Section 2605 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' after ''administration of''; and

(B) by inserting before the period at the end of the first sentence '', or (2) the National Defense University'';

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''subsection (a)'' and inserting ''subsection (a)(1)'';

(C) by designating the last sentence as paragraph (3) and in that sentence by inserting ''or for the benefit or use of the National Defense University, as the case may be,'' after ''schools,''; and

(D) by inserting before paragraph (3), as designated by subparagraph (C), the following:

''(2) There is established in the Treasury a fund to be known as the 'National Defense University Gift Fund'. Gifts of money, and the proceeds of the sale of property, received under subsection (a)(2) shall be deposited in the Fund.'';

(3) in subsection (d)(1)(A), by inserting ''and the National Defense University Gift Fund'' before the semicolon; and

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

''(h) In this section, the term 'National Defense University' includes any school or other component of the National Defense University.''.

(b) CLERICAL AMENDMENT.—(1) The heading of such section is amended to read as follows:

''§ 2605. Acceptance of gifts for defense dependents' schools and National Defense University''.

(2) The item relating to such section in the table of sections at the beginning of chapter 151 of such title is amended to read as follows:

''2605. Acceptance of gifts for defense dependents' schools and National Defense University.''.

Amendment No. 23 offered by Mr. SPRATT:

At the end of title XI (page 222, after line 3), insert the following new section:

SEC. ___. CERTIFICATION FOR DEPARTMENT OF DEFENSE PROFESSIONAL ACCOUNTING POSITIONS.

(a) IN GENERAL.—(1) Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1599d. Professional accounting positions: authority to prescribe certification and credential standards

''(a) AUTHORITY TO PRESCRIBE PROFESSIONAL CERTIFICATION STANDARDS.—The Secretary of Defense may prescribe professional certification and credential standards for professional accounting positions within the Department of Defense. Any such standard shall be prescribed as a Department of Defense regulation.

''(b) WAIVER AUTHORITY.—The Secretary may waive any standard prescribed under subsection (a) whenever the Secretary determines such a waiver to be appropriate.

''(c) APPLICABILITY.—A standard prescribed under subsection (a) shall not apply to any person employed by the Department of Defense before the standard is prescribed.

''(d) REPORT.—The Secretary of Defense shall submit to Congress a report on the Secretary's plans to provide training to appropriate Department of Defense personnel to meet any new professional and credential standards prescribed under subsection (a). Such report shall be prepared in conjunction with the Director of the Office of Personnel Management. Such a report shall be submitted not later than one year after the effective date of any regulations, or any revision to regulations, prescribed pursuant to subsection (a).

''(e) DEFINITION.—In this section, the term 'professional accounting position' means a position or group of positions in the GS–510, GS–511, and GS–505 series that involves professional accounting work.''.

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

''1599d. Professional accounting positions: authority to establish certification and credential standards.''.

(b) EFFECTIVE DATE.—Standards established pursuant to section 1599d of title 10, United States Code, as added by subsection (a), may take effect no sooner than 120 days after the date of the enactment of this Act.

Amendment No. 24 offered by Mr. STUMP:

At the end of subtitle C of title I (page 23, after line 5), insert the following new section:

SEC. ___. REALLOCATION OF CERTAIN FUNDS FOR AIR FORCE RESERVE COMMAND F–16 AIRCRAFT PROCUREMENT.

Of the funds authorized to be appropriated by section 103(1) that are available for procurement of F–16 aircraft for the Air Force Reserve Command, $14,400,000 shall be available for 36 Litening II modernization upgrade kits for the F–16 block 25 and block 30 aircraft (rather than for Litening AT pods for such aircraft).

Page 65, line 11, strike ''$30,00,000'' and insert ''$35,000,000''.

In section 2811, page 295, after line 11, insert the following new subsection (and redesignate subsequent subsections accordingly):

''(e) ACQUISITION OF WATER RIGHTS.—The authority of the Secretary of a military department to enter into an agreement under subsection (a) for the acquisition of real property (or an interest therein) includes the authority to support the purchase of water rights from any available source when necessary to support or protect the mission of a military installation.

Amendment No. 22 offered by Mr. TIAHRT:

At the end of subtitle B of title X (page 209, after line 25), insert the following new section:

SEC. ___. LIMITATION ON DURATION OF FUTURE DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS.

(a) IN GENERAL.—Chapter 23 of title 10, United States Code, is amended by inserting after section 480 the following new section:

''§ 480a. Recurring reporting requirements: five-year limitation

''(a) FIVE-YEAR SUNSET.—Any recurring congressional defense reporting requirement that is established by a provision of law enacted on or after the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (including a provision of law enacted as part of that Act) shall cease to be effective, with respect to that requirement, at the end of the five-year period beginning on the date on which such provision is enacted, except as otherwise provided by law.

''(b) RULE OF CONSTRUCTION.—A provision of law enacted after the date of the enactment of this section may not be considered to supersede the provisions of subsection (a) unless that provision specifically refers to subsection (a) and specifically states that it supersedes subsection (a).

''(c) RECURRING CONGRESSIONAL DEFENSE REPORTING REQUIREMENTS.—In this section, the term 'recurring defense congressional reporting requirement' means a requirement by law for the submission of an annual, semiannual, or other regular periodic report to Congress, or one or more committees of Congress, that applies only to the Department of Defense or to one or more officers of the Department of Defense.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 480 the following new item:

''480a. Recurring reporting requirements: five-year limitation.''.

The CHAIRMAN. Pursuant to House Resolution 415, the gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

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

This en bloc amendment has been crafted in full consultation with the committee's ranking Democrat, the gentleman from Missouri (Mr. SKELTON), and includes the part B amendments as reported by the Committee on Rules offered by the following Members: the gentleman from Texas (Mr. CULBERSON), the gentlewoman from

Virginia (Mrs. JO ANN DAVIS), the gentleman from California (Mr. FARR), the gentleman from Colorado (Mr. HEFLEY), the gentleman from Illinois (Mr. MANZULLO), the gentleman from Texas (Mr. ORTIZ), the gentleman from New Jersey (Mr. PALLONE), the gentleman from New Jersey (Mr. SAXTON), the gentleman from Virginia (Mr. SCHROCK), the gentleman from Arkansas (Mr. SNYDER), the gentleman from South Carolina (Mr. SPRATT), the gentleman from Kansas (Mr. TIAHRT) and myself.

I would like to thank all those Members for their work in putting this en bloc amendment together and for their cooperation in allowing us to consider them in this fashion.

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

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume. Let me take this opportunity to thank the chairman for his work on the en bloc amendments. I might say, Mr. Chairman, that we have reviewed each of the proposed en bloc amendments, that we agree to the submission thereof and the passage thereof, and that they should all be supported by the Members of this body.

Let me take just a moment in addition thereto, Mr. Chairman. Part of our duties as members of the Committee on Armed Services besides having hearings and having the briefings and doing the study here in Washington is to meet with the various members of the military personnel wherever they may be. Not long ago, I was aboard the USS Harry S Truman in Norfolk and met with the officers and men and women of that ship.

Not long thereafter, I was in San Diego and I went aboard the USS Peleliu and visited extensively with the sailors thereon. By the way, they had just returned from their duties in the Indian Ocean. And then I have been to Little Rock Air Force Base and saw the extensive training there; to Fort Campbell, Kentucky; to Whiteman Air Force base, which is in the State of Missouri.

I must tell my colleagues that the young people in American uniform are working hard, that they are dedicated and that they are professionals and the purpose of our being here today is to give them support. However, it is interesting to note two things. The first is that they are being stretched and strained in their efforts because there are too few in number in many instances. This is pointed out by the fact that General Buck Kernan of forces command down in Norfolk testified not long ago to the effect that the troops are tired and that they are stretched. Then a week later, the commander of our forces in Europe, General Joe Ralston, testified that there were needs for additional forces and resources in his jurisdiction. Admiral Dennis Blair, Commander in Chief of the Pacific, testified similarly.

The young men and young women are stretched. Their families are paying a price of them being gone so much, but that is only half the story. The other half of the story, Mr. Chairman, is the fact that the morale is sky high, that they know why they are there, that they are supporting the men and women of the United States of America; and I think all of us should add a special note of pride and appreciation to them.

So I take this means while we are discussing these en bloc amendments, which we, of course, have no objection to, to say that added word in honor and in recognition of our young folks who represent the United States of America in uniform.

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

Mr. STUMP. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I thank the gentleman from Arizona (Mr. STUMP) and the gentleman from Missouri (Mr. SKELTON) for including the Tiahrt amendment language in the en bloc. This sunsets many unneeded reports after 5 years.

The bill already contains the Tiahrt-Kirk language ending 20 unneeded reports that were previously required by law. Our effort is the first fruit of Secretary Rumsfeld's tooth-to-tail effort to increase the amount of effort we have on the front line by decreasing unneeded logistic efforts behind the lines. The Secretary launched this effort on September 10, but we are now yielding real fruit.

The current bill language killing unneeded reports is estimated to save over 21,000 man-hours inside the Pentagon. This effort in the en bloc to sunset all reports after 5 years will go a long way to focus efforts on the combat front line and away from the rear echelon.

I thank the gentleman from Arizona, and I thank the gentleman from Missouri for including this in the en bloc.

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

Mr. SPRATT. Mr. Chairman, I have an amendment included among the en bloc amendments which was specifically requested by the Department of Defense. In fact, the idea for this amendment arose at a breakfast we had with Secretary Rumsfeld at which there were complaints about limitations on their ability to manage the Pentagon. One was in the quality of personnel they have for financial management, the attraction of personnel with the requisite qualifications for handling a budget that is now approaching $400 billion, the certification of these qualifications, hiring, firing.

I responded to that by calling Dr. Dov Zakheim, who is the comptroller of the Department of Defense, and telling him if he had problems like this, we were not going to be stinting about the cost of professional personnel in the Department of Defense. We need to raise the quality of management throughout the Federal Government and certainly in the Department that has the largest budget.

I asked him to send me legislation of what he would like to have in the way of professional qualifications, certification, what he could reasonably require for those who worked in the Department of the Controller. He sent me some legislation, and we made a few minor revisions to it. We made some revisions primarily to make it prospective instead of retrospective so that nobody loses his job because he does not meet these new qualifications or these new certifications. Secondly, we worked with the American Federation of Government Employees to make sure that they were satisfied with the proposal we have got.

This amendment is just a crucial first step to helping the Department of Defense improve their abilities in the area of financial management and their ability to track and account for the funding that Congress provides. The heart and soul, obviously, of any accounting system is the people it employs. This will enable the Department to raise the level, raise the bar in the qualifications for people who are attracted and hired in the Department of Defense for financial management.

It is my understanding that the Committee on Government Reform has also vetted this legislation and supports it as well. I urge an ''aye'' vote on the en bloc amendment.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Chairman, I want to thank the chairman of the Committee on Armed Services for the outstanding work he has done for our armed services. His leadership is going to be greatly missed. We appreciate the job he has done for America.

My amendment, Mr. Chairman, would require that future regular reporting requirements imposed on the Department of Defense would have a sunset provision of 5 years after enactment. This would not apply to existing reporting requirements and only be applicable to new reports, including those in this bill, H.R. 4546.

This amendment serves both Congress and DOD by ensuring that all future reports are reviewed regularly and remain relevant and responsive. This is endorsed by Secretary of Defense Donald Rumsfeld. This legislation does not abdicate Congress' traditional oversight role and will insist that the Department of Defense remain responsive to congressional requests and questions about their activities. Those reporting requirements deemed useful after 5 years can easily be reauthorized at the conclusion of the sunset period. Conversely, Congress must demonstrate responsibility in its oversight authority by limiting burdensome and unnecessary and unending reporting requirements.

In fiscal year 2001, the Department of Defense was required to prepare 983

various reports to Congress, of which 449 are listed right here in this packet. This is simply a listing and a brief explanation of the 449 reports that are perennially required by Congress and stipulated year after year. The House Committee on Armed Services in conjunction with the Department of Defense has carefully examined these 449 reports and determined that only 20 out of the 449 were redundant, outdated or no longer relevant enough and should be terminated.

Since it is unlikely that Congress will be unable to significantly reduce the number of existing reports, it is our goal to limit the future ones. Remember, each existing and future report is an unfunded and unprogrammed mandate that has proven extremely difficult to eliminate. The cumulative effect of these required reports is highly burdensome and costly. Limiting these requirements in the future will allow the military staff to concentrate more fully on their primary mission of national security.

□ 1500

Mr. STUMP. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. PLATTS) for the purposes of a colloquy.

Mr. PLATTS. Mr. Chairman, I first would like to add my words of thanks and praise to the gentleman from Arizona (Mr. STUMP) for his fine leadership for the Committee on Armed Services and doing right by our armed men and women in uniform.

I rise for the purpose now of engaging in a colloquy with the gentleman from New Jersey (Mr. SAXTON), the chairman of the Subcommittee on Military Installations and Facilities of the Committee on Armed Services.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. PLATTS. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I would be happy to engage in a colloquy with the gentleman from the State capital area of Pennsylvania (Mr. PLATTS).

Mr. PLATTS. Mr. Chairman, as the gentleman knows, I requested that his subcommittee authorize the first phase of an important 5-phase project to replace seriously deteriorated family housing at the Army War College at Carlisle Barracks, Pennsylvania, which is in my district. The first phase is a modest beginning of 27 new units costing $5.4 million. I understand that there was insufficient money to accommodate all Members' requests, however worthy. However, I have been informed that the Army intends to fund this project in the fiscal year 2004 budget that will be submitted in February 2003.

Mr. Chairman, this project is sorely needed, and I ask that the gentleman support this needed family housing project when his subcommittee reviews the Army's military construction request next year.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. PLATTS. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I thank the gentleman. The gentleman is correct that there is or was insufficient funding available to provide for all of the military construction and family housing improvements that are needed across our military. I might add that we have tried to increase the amount of money available for this purpose and, in fact, we were able to add some money to the request that we received from the Department of Defense. I wish that we could have done more, and I particularly wish we could have taken care of all family housing needs, as quality-of-life improvements are so important and necessary in today's volunteer service.

I agree that family housing at Carlisle Barracks is among those housing projects that must be replaced, and I assure the gentleman that any request by the Army for new family housing at Carlisle will receive careful consideration by my subcommittee in the next year.

Family housing is an important priority and has always received the subcommittee's full support. I thank the gentleman for bringing this important matter to our attention, and I look forward to working with him on it in the next Congress.

Mr. PLATTS. Mr. Chairman, reclaiming my time, I thank the gentleman for his interest and support on this issue, and I also look forward to working with him, and I thank him for his fine leadership.

Mr. STUMP. Mr. Chairman, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, today I rise to support the en bloc amendment containing a Sense of Congress on Aircraft Carrier Force Structure. This amendment would do 2 things.

First, it would commend the crews of the aircraft carriers that contributed directly to Operation Enduring Freedom and the homeland defense mission. Many people are aware that our aircraft carriers contributed to our initial actions in Operation Enduring Freedom, but most people are unaware as to the number of carriers and also the incredible effort and number of aircraft carriers it took to effect our initial response to the attack on September 11.

Second, this amendment would recognize the full value and worth that our carriers have for America's power and force projection capabilities. There is no doubt that the aircraft carriers have been integral to our war in Afghanistan. We have all heard the story of how the USS Enterprise turned around and went back when the captain heard about what was going on. Every munition and bomb dropped from a carrier air wing has been a precision-guided munition. The carriers worked around the clock after the attacks on September 11.

Mr. Chairman, the Sense of Congress expresses a simple truism that is laid out in the Quadrennial Defense Review. The Navy needs, at a minimum, at least 12 aircraft carriers.

Mr. Chairman, I would strongly encourage all of my colleagues to vote in support of this en bloc amendment.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I thank the gentleman for yielding me this time.

I would like to rise in support of the amendment of the gentlewoman from Virginia. One would not think that there would be much controversy about the important role Navy aircraft carriers are playing in this very dangerous world. Indeed, if we want to follow the war on terrorism on a daily basis, it is difficult to read a newspaper article or see television coverage that does not mention what our carriers are doing to keep fighting that remains away from our shores. No less than 8 carriers have been involved in Operation Enduring Freedom or patrolling our own shores in the name of homeland security since September 11.

This amendment also reaffirms our support for a fleet of no less than 12 carriers, the absolute minimum necessary to sustain coverage in the oceans around the hot spots in the world. The underlying bill restores both the funding and the original program of record for the next generation of aircraft carriers, CVNX program, and for that, Mr. Chairman, I am truly grateful.

Those of us who have had the privilege of representing Hampton Roads in Virginia, where carriers are built and many home-ported, we see on a daily basis the service and sacrifice made by these brave men and women and their families they leave behind when they race off to war. It would be my hope that our action on this amendment here would reaffirm once again that we in Congress both recognize and salute all of those in the armed services, including those Navy families who remain behind as their loved ones are deployed on these massive carriers.

Mr. Chairman, I want to congratulate the gentlewoman from Virginia (Mrs. JO ANN DAVIS) on offering this amendment, and I urge my colleagues to agree to the amendment.

Mr. STUMP. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I want to do 2 things. The first is to mention, and I neglected to mention in my opening statement, that the gentleman from Massachusetts (Mr. MEEHAN) has been my partner on the Subcommittee on Military Research and Development of the Committee on Armed Services, and has done a wonderful job and has helped us to walk this bill through the subcommittee mark and the full floor mark, and I really appreciate his great work on this bill.

I also wanted to talk for just a minute about an area that I think is

pretty important to all of us from an environmental standpoint and also from a security standpoint, and that is our reserve fleet of ships, many of which are in very bad condition, which presently are at anchor in the James River, and our great colleague, Herb Bateman, worked on this issue for many years, the idea of trying to take care of these ships in an environmentally responsible way. It requires a lot of money. It usually requires about $2.5 million per ship if you are going to scrap the ships in an American yard. You can give them to a foreign entity, but you are not really guaranteed that that entity is not just going to take the ships out and dump them, complete with PCBs and oil and other materials in the ocean, thereby creating another environmental problem.

So we have come up, in working with a working group that is headed by the gentlewoman from Virginia (Mrs. JO ANN DAVIS), very much a part of her creation, and the gentleman from Virginia (Mr. FORBES) who has a nearby district and also the gentleman from Virginia (Mr. SCHROCK) who has a near district, we have come up with an idea of how to make some lemonade out of these lemons, and that is to use these ships in the States where reefs are required and would, in fact, be a benefit to those shorelines.

Now, today reefs are used by a number of States to not only protect shorelines from erosion, but also to provide great opportunities for fishing enthusiasts and also for scuba divers and lots of other folks who are interested in recreation. So we have in our bill, originally in the mark in our maritime panel mark, and now in the full bill, a provision that will send some money to the States as grants from the MARAD administrator so that they can pay for towing, cleaning up and ultimately sinking these ships as reefs in these States that would like to have this new asset along their shorelines.

So I want to thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS) for her great work on this and also her colleagues that she has brought into this process, including the gentleman from Virginia (Mr. FORBES) and the gentleman from Virginia (Mr. SCHROCK), who have a real interest, because they have the surrounding districts.

We have already hooked up with some of the sport fishing associations, and we are going to move forward with this working group and take direction from the Members of Congress led by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) who have a real interest in this issue because it is in their districts. We are going to move forward with this working group and I think we can find a home for these ships in such a way that we not only take them off our hands and eliminate this prospect of the ships sinking in the James River and the pollution that would attend that. We can not only take those ships out of inventory, but we can also provide an asset for the States that want to have this new shoreline presence of reefs that we can provide by sinking these ships.

So this could be a winner for everybody, and I look forward to working with the gentlewoman from Virginia (Mrs. JO ANN DAVIS) on this issue.

Mr. HORN. Mr. Chairman, there has been considerable concern that this legislation gives the Department of Defense some limited exemptions from current environmental laws. Although this is a complicated issue and there are legitimate concerns on both sides, I think it is important to keep in mind some simple facts. Here are a few:

Fact Number One: The Migratory Bird Treaty Act did not interfere with military training in past wars for a simple reason. The courts never applied the act in this way until March of this year—2002—when the U.S. District Court for the District of Columbia interpreted the Migratory Bird Treaty Act to apply to military readiness activities. This is an important and real change in application of the Migratory Bird Act and we must address it. Navy Carrier Battle Groups and deploying Marine Corps and Air Force squadrons have been blocked by court order from using the only U.S. bombing range available to them in the Western Pacific. Let's be clear, our forces deploying to Afghanistan cannot now use the only range suitable for training with smart, laser-guided weapons, as a result of unprecedented judicial interference with military readiness activities.

Fact Number Two: There is no Presidential exemption available under the Migratory Bird Treaty Act. Under the current District Court interpretation, any military training can be enjoined and, except through legal appeals, there is no way to continue that vital military training.

Fact Number Three: There is an exemption under the Endangered Species Act (ESA) if the Secretary of Defense finds it is necessary for reasons of national security. That exemption, however, is better used to address emergencies or unusual, short-term situations. The need to train for combat, to plan and execute military readiness activities, is a seven day a week, 52 weeks a year requirement. The young men and women serving in our armed forces need to achieve basic readiness levels and then develop and sustain high levels of proficiency. Using statutory exemptions in that context is bad public policy. Balancing two public goods—national defense and environmental conservation—on a daily and long-term basis is a function properly vested in the Congress.

Mr. Chairman, our armed forces are not seeking a broad, total exemption from all environmental laws and regulations. They are seeking a balanced, sensible and responsible application of those laws. We must address this problem in a way that holds the Pentagon accountable for environmental concerns while also allowing the service to conduct essential combat training. This legislation sets the necessary balance and I urge my colleagues to support it.

Mr. ORTIZ. Mr. Chairman, I rise to briefly describe my amendment to today's bill . . . it is a simple amendment. It merely re-enforces for the services that the journey to approval of any policy or purchase on their part must travel through the House Armed Services Committee.

The genesis of this amendment lies with the Navy's intention to purchase five T–5 tankers (surface ships) now under contract with Ocean Freedom Shipping. These tankers are being used to ship diesel fuel for the Defense Energy Supply Center.

Under the contract, the Navy has the option to buy the tankers. The contract also requires the Navy to have the purchase authorized and appropriated.

This amendment reinforces for the services the procedure for which such policy must past muster. This is for the HASC to authorize, not for the Navy to seek appropriations for alone.

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

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

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Arizona (Mr. STUMP).

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in part A of House report 107–450.

PART A, AMENDMENT NO. 1 OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A, amendment No. 1 offered by Mr. WELDON of Pennsylvania:

At the end of title X (page 218, after line 15), insert the following new section:

SEC. 10___. ENHANCED COOPERATION BETWEEN UNITED STATES AND RUSSIAN FEDERATION TO PROMOTE MUTUAL SECURITY.

(a) STATEMENT OF POLICY.—It is the policy of the United States to pursue greater cooperation, transparency, and confidence with the Russian Federation regarding nuclear weapons policy, force structure, safeguards, testing, and proliferation prevention, as well as nuclear weapons infrastructure, production, and dismantlement, so as to promote mutual security, stability, and trust.

(b) SENSE OF CONGRESS REGARDING ENHANCED COOPERATION WITH RUSSIA.—It is the sense of Congress that the President of the United States should continue to engage the President of the Russian Federation to achieve the following objectives, consistent with United States national security, in the interest of promoting mutual trust, security, and stability:

(1) An agreement that would seek to prevent the illicit use, diversion, theft, or proliferation of tactical nuclear weapons, and their key components and materials, by—

(A) withdrawing deployed nonstrategic nuclear weapons;

(B) accounting for, consolidating, and securing the Russian Federation's nonstrategic nuclear weapons; and

(C) dismantling or destroying United States and Russian nonstrategic nuclear weapons in excess of each nation's legitimate defense needs.

(2) A reciprocal program of joint visits by nuclear weapons scientists and experts of the United States and the Russian Federation to the United States nuclear test site in Nevada, and the Russian nuclear test site at Novya Zemlya.

(3) A reciprocal program of joint visits and conferences at each nation's nuclear weapons laboratories and nuclear weapons development and production facilities to discuss how to improve the safety and security of

each nation's nuclear stockpile, nuclear materials, and nuclear infrastructure.

(4) A reciprocal program of joint visits and conferences to explore greater cooperation between the United States and the Russian Federation with regard to ballistic missile defenses against intentional, unauthorized, and accidental launches of ballistic missiles.

(5) A joint commission on nonproliferation, composed of senior nonproliferation and intelligence officials from the United States and the Russian Federation, to meet regularly in a closed forum to discuss ways to prevent rogue states and potential adversaries from acquiring—

(A) weapons of mass destruction and ballistic missiles;

(B) the dual-use goods, technologies, and expertise necessary to develop weapons of mass destruction and ballistic missiles; and

(C) advanced conventional weapons.

(6) A joint program to develop advanced methods for disposal of weapons-grade nuclear materials excess to defense needs, including safe, proliferation resistant, advanced nuclear fuel cycles that achieve more complete consumption of weapons materials, and other methods that minimize waste and hazards to health and the environment.

(7) A joint program to develop methods for safeguarding, treating, and disposing of spent reactor fuel and other nuclear waste so as to minimize the risk to public health, property, and the environment, as well as the possibility of diversion to illicit purposes.

(8) A joint program, built upon existing programs, to cooperatively develop advanced methods and techniques for establishing a state-of-the-art inventory control and monitoring system for nuclear weapons and material.

(c) REPORT.—No later than March 1, 2003, the President shall submit to Congress a report (in unclassified or classified form as necessary) on the status of the objectives under subsection (b). The report shall include the following:

(1) A description of the actions taken by the President to engage the Russian Federation to achieve those objectives.

(2) A description of the progress made to achieve those objectives.

(3) A description of the response of the Russian Federation to the actions referred to in paragraph (1).

(4) The President's assessment of the Russian Federation's commitment to a better, closer relationship with the United States based on the principles of increased cooperation and transparency.

At the end of subtitle C of title XXXI (page 352, after line 24) insert the following new section:

SEC. 3146. CONDITIONS UNDER WHICH PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS IS REPEALED.

(a) PRESIDENTIAL CERTIFICATION.—Subsection (b) shall take effect as of the date on which the President submits to Congress the President's certification that—

(1) another nation has conducted a nuclear test for the purpose of developing new or improved nuclear weapons;

(2) another nation is developing weapons of mass destruction in underground facilities, and such weapons could pose an imminent risk to the United States or to United States military personnel deployed abroad; or

(3) it is in the national security interest of the United States that subsection (b) take effect.

(b) REPEAL.—Effective as of the date provided in subsection (a), section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 2121 note) is repealed.

The CHAIRMAN. Pursuant to House Resolution 415, the gentleman from Pennsylvania (Mr. WELDON) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. WELDON).

MOTION TO RISE OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion to rise offered by the gentleman from Mississippi (Mr. TAYLOR).

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

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 51, noes 356, not voting 27, as follows:

[Roll No. 138]

AYES—51

Abercrombie
Baldwin
Becerra
Berry
Bonior
Brady (PA)
Brown (OH)
Capuano
Condit
Conyers
Cunningham
DeFazio
DeGette
Delahunt
Dingell
Doggett
Filner
Frank
Hinchey
Holt
Honda
Jefferson
Johnson, E. B.
Jones (OH)
Kleczka
Kucinich
Larson (CT)
Lee
Markey
McDermott
McGovern
McIntyre
Miller, George
Mink
Napolitano
Owens
Pelosi
Pomeroy
Roybal-Allard
Schakowsky
Shows
Slaughter
Solis
Stark
Stupak
Tanner
Taylor (MS)
Tierney
Visclosky
Waters
Wu

NOES—356

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (IL)
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spratt
Stearns
Stenholm
Strickland
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—27

Berman
Burton
Cannon
Crane
Dooley
Doolittle
Doyle
Hall (OH)
Hilleary
Hyde
Jackson-Lee (TX)
Johnson, Sam
Kennedy (MN)
LaFalce
Lewis (GA)
Maloney (CT)
Mollohan
Nethercutt
Ose
Reyes
Riley
Roukema
Schaffer
Souder
Traficant
Watson (CA)
Waxman

□ 1535

Messrs. OLVER, FARR of California, GOSS, BARTON of Texas, HERGER and Ms. CARSON of Indiana changed their vote from ''aye'' to ''no.''

Mr. GEORGE MILLER of California changed his vote from ''no'' to ''aye.''

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MALONEY of Connecticut. Mr. Speaker, I was absent on May 9, 2002, and missed rollcall votes 134, 135, 136, 137 and 138. If I had been present, I would have voted ''no'' on rollcall vote 134, ''no'' on rollcall vote 135, ''no'' on rollcall vote 136, ''no'' on rollcall vote 137 and ''no'' on rollcall vote 138.

MODIFICATION TO PART A AMENDMENT NO. 1 OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I ask unanimous consent to modify my amendment with the modification I place at the desk as worked out with my colleagues on the other side.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to Part A Amendment No. 1 Offered by Mr. WELDON of Pennsylvania:

Strike section 3146 as proposed to be inserted by the amendment and insert the following:

SEC. 3146. PROHIBITION ON DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS.

(a) UNITED STATES POLICY.—It shall be the policy of the United States not to conduct development which could lead to the production by the United States of a new low-yield nuclear weapon, including a precision low-yield warhead.

(b) LIMITATION.—The Secretary of Energy may not conduct, or provide for the conduct of, development which could lead to the production by the United States of a low-yield nuclear weapon which, as of the date of the enactment of this Act, has not entered production.

(c) EFFECT ON OTHER DEVELOPMENT.—Nothing in this section shall prohibit the Secretary of Energy from conducting, or providing for the conduct of, development necessary—

(1) to design a testing device that has a yield of less than five kilotons;

(2) to modify an existing weapon for the purpose of addressing safety and reliability concerns; or

(3) to address proliferation concerns.

(d) DEFINITION.—In this section—

(1) the term ''low-yield nuclear weapon'' means a nuclear weapon that has a yield of less than five kilotons; and

(2) the term ''development'' does not include concept definition studies, feasibility studies, or detailed engineering design work.

(e) CONFORMING REPEAL.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 2121 note) is repealed.

Mr. WELDON of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Is there objection to the modification of the amendment?

There was no objection.

The CHAIRMAN. The amendment is modified.

The gentleman from Pennsylvania (Mr. WELDON) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this is a historic day in the House of Representatives as we consider an amendment that is bipartisan, co-sponsored by my colleagues the gentleman from Texas (Mr. THORNBERRY), the gentleman from New Jersey (Mr. ANDREWS), the gentleman from Texas (Mr. TURNER), the gentleman from Hawaii (Mr. ABERCROMBIE), and the gentleman from South Carolina (Mr. SPRATT).

Mr. Chairman, this is a historic amendment and a historic day because this body is rising in a bipartisan voice to support the leadership of the President of the United States and the President of Russia to begin a new era in nuclear cooperation.

The amendment before us today has eight specific thrusts in opening up the transparency between the American and the Russian nuclear program. It calls for American scientists to be allowed to visit Novaya Zemlya, the underground test site in Russia, and for Russian scientists to visit our sites in Nevada.

It calls for joint cooperation in conferences on ways to monitor our nuclear stockpiles. It calls for joint visits and conferences to discuss the safety and security of our nuclear weapons. It calls for a joint commission on nonproliferation, a joint commission on cooperation on missile defense.

This program puts this body on record with a bipartisan vote that we, in fact, support the new vision of President Bush and President Putin. We started this process last fall when one-third of this Congress with my colleagues on the Democratic side and my colleagues on the Republican side joining together in a 45-page document outlining a new relationship with Russia.

This amendment calls for the specifics in implementing this new vision. This amendment allows the President and the President of Russia to truly open the doors for strong bilateral cooperation between our nations. It is a historic day. Our nuclear regulatory agencies and our security agency, I talked to General Holland and he totally supports the direction that we are going.

We have agreement on the Democrat and Republican sides about the thrust. We also give the President some flexibility in the research area to make sure that we have the ability to do additional research that up until this point in time has been prohibited. I am extremely pleased that we were able to work out a very carefully crafted piece of legislation with my colleagues on the other side that I hope we will vote unanimously or overwhelmingly show that this Congress is behind a new direction in the security relationship between the United States and Russia.

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

The CHAIRMAN. Is the gentleman from South Carolina (Mr. SPRATT) opposed?

Mr. SPRATT. Mr. Chairman, I am not opposed to the amendment, but I claim the time on my side.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina to control the time?

There was no objection.

The CHAIRMAN. The gentleman from South Carolina (Mr. SPRATT) is recognized for 10 minutes.

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

Mr. Chairman, I would have been opposed to the amendment as of yesterday, but we have had a work in progress here and I must say we have come up with a very good effort. I commend the gentleman for his efforts. I think he has a good bill.

The gentleman is probably more engaged than any member of Congress in either house in trying to bring Russia and the United States closer together. What he has in this bill, the first part of it, is an ambitious agenda dealing with nonproliferation, lab exchanges, visits to our testing sites.

What the gentleman has in the first part of the bill is an ambitious agenda of how we can bring Russia and the United States closer together in strategic cooperation. It lays out a number of specifics ranging from nonproliferation efforts to lab exchanges to joint visits to our testing sites, an ambitious agenda but nevertheless all the things we ought to be doing, the whole strategic spectrum.

I think it is well stated and well in order, and I think the bill deserves support for that reason alone.

I had a problem with the last page of the bill originally because the last page dealt with an amendment that I had added to the law, to Title XX, some six or seven years ago. That provision, the Spratt provision, Spratt first provision, prohibited testing below the level of five kilotons for reasons I will not get into here. There is no longer a provision in this bill that would repeal that. But there is a provision in this bill that would broaden the type of research that our labs can do with low yield weapons, the kind of development work they can do. It limits that work to what we could call in the Subcommittee on Military Research and Development 6–2–A; that is to say; they can do concept definition work, they can do research work, they can do design work, they can build a wooden mock-up, but they cannot bend metal or do fissile component parts until the law itself is changed.

I think that is a reasonable provision that gives the labs a much clearer definition of what the boundaries are, broadens the scope of what they can do, but stops short of decreeing a repeal of the 2–K-T provision.

In addition, yesterday this bill contained a call for a joint Russia collaboration on the development of nuclear penetrating weapons, nuclear and conventional, and the gentleman, after some reflection and discussion with the Department of Energy and others, has decided to take that off the bill.

With those two improvements this is a very good bill, a very good piece of work, and I commend it to everybody's support.

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

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. THORNBERRY) a leader on these issues in the Congress.

Mr. THORNBERRY. Mr. Chairman, I appreciate the distinguished subcommittee chairman yielding me time. He truly is the leader in Congress in our relationship with Russia and I believe that here, working with the gentleman from South Carolina (Mr. SPRATT), who is one of the most knowledgeable Members in Congress on these nuclear and strategic issues, they have come up with a very good product.

As the gentleman from South Carolina (Mr. SPRATT) mentioned, this includes an ambitious list of items to be on the agenda between the United States and Russia, including joint and reciprocal programs that deal with everything from nonproliferation all the way to disposal of waste. It is something that gives all of our contacts with Russia an agenda to go by and to encourage them to remove more of the distrust that still remains after years of Cold War and to work together in ways that are to our mutual benefit, but also to the benefit of the world.

So as the gentleman from South Carolina (Mr. SPRATT) mentioned, this amendment recognizes the need for a credible deterrent in the post-Cold War world, removing some restrictions that have made it uncomfortable for some of the folks in our laboratories to even be thinking about the kind of things we need for the future. So I want to commend both leaders on this issue. I think this is an important step that gives us a lot to work with in the future, and I hope Members will support it.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), the ranking member of our committee.

Mr. SKELTON. Mr. Chairman, I thank my friend from South Carolina (Mr. SPRATT) for yielding me time.

Mr. Chairman, I think this is true what the gentleman from Pennsylvania (Mr. WELDON) has said that this is an historic moment in this House because it makes a giant step forward in the nuclear nonproliferation effort. It retains the existing ban on developing low yield nuclear weapons, but the most important part is it allows scientific research to go forward in our nuclear weapons laboratories.

□ 1545

As the gentleman from South Carolina (Mr. SPRATT) said, in the original wording of the amendment, the latter part thereof did cause a great deal of concern on my part, and I am sure it was in the minds of others. So I compliment the gentleman on the compromise and our working together.

This is an excellent example between the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from South Carolina (Mr. SPRATT) and all the others that were interested in this nonproliferation issue to make a step forward and to have an excellent compromise. We thank the gentlemen for that.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New Mexico (Mrs. WILSON) who has also been a tireless advocate on the nuclear security issues for this country and in the world.

Mrs. WILSON of New Mexico. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. WELDON) for yielding me the time, and I thank him for his leadership on this issue and for really understanding the relationship between the United States and Russia.

I particularly appreciate this amendment because it focuses on some of the things we need to do now in the 21st century as opposed to looking backwards to the old relationship between the United States and the former Soviet Union. We need to focus on increasing transparency and cooperation with Russia because the situation has changed.

The principal threat is no longer each other. The principal threat to the United States and to Russia are third parties that threaten both of us and, therefore, cooperation and transparency are in our mutual interest.

I think we also have to recognize that Russia has a very active tactical nuclear program and there are some questions we have about their nuclear testing sites, and the best way to move forward is to actively and aggressively seek the cooperation of Russia in opening things up, cooperating, opening transparency at these places, so we as the United States can be reassured about what is going on now.

This is a good amendment. It is a good step in the right direction, and I commend the gentleman from Pennsylvania for his leadership.

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

The CHAIRMAN. The gentleman from South Carolina (Mr. SPRATT) has 6 minutes remaining. The gentleman from Pennsylvania (Mr. WELDON) has 4 minutes remaining.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. TURNER), one of the key players in the compromises that have perfected and made this a better bill.

Mr. TURNER. Mr. Chairman, I thank the gentleman from South Carolina (Mr. SPRATT) for yielding me time, and I want to thank him for his leadership in working on this amendment, and I want to commend the gentleman from Pennsylvania (Mr. WELDON) for his leadership in trying to work out the compromise that we have before us that I think moves us forward in the bipartisan manner that I think serves the national interests of this country very well.

This amendment sets in place for the first time a set of objectives that would be pursued between our Nation and Russia to try to enhance cooperation and furthering the efforts to end proliferation of nuclear weapons. Specific provisions of the amendment provide for exchange programs between our Nation and Russia, provides for increased transparency of the activities of each Nation in the area of nuclear research, and I want to say that having had the opportunity to travel to Russia with our friend, the gentleman from Pennsylvania (Mr. WELDON), I have the highest regard for his interest, his dedication, and his commitment to working with Russia to end nuclear proliferation and to be sure that this Nation's national interests are protected in that process. So I think all of us want to say to him we appreciate his leadership in this area.

I know that many Members heretofore had questions about this amendment. I want to remind Members on both sides of the aisle that the compromise that we are laying before the House today was just arrived at a few moments ago. We think it deserves the support of the entire House on both sides. We think it is an important step forward toward peace and toward improving our cooperative relationship with Russia.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, this is right for the United States and this is right for this Congress. This is an opportunity for the bilateral relationships between the United States and Russia to improve, and I am here to say that I am very thankful to see that it is also a real sign of bipartisanship of this Congress where Democrats and Republicans, who up to yesterday had some disagreements about some language in this amendment, have come together in a very practical and common sense way to increase the opportunities for our national labs, two of which are in my district in northern California, to work to provide for the American people and frankly for the people of Russia and around the world much more opportunities for nonproliferation, much more opportunities for bilateral work and cooperation, and the ability for us to have agreements between our countries that are much more transparent and give a sense that we are very committed to working together and to turn aside the old adversarial relationships in the post-Cold War and move to a new time where we can be cooperative against the threats that we both share.

I want to thank my colleagues on both sides of the aisle for being so cooperative in working together.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Subcommittee on Military Research and Development of the Committee on

Armed Services, and a leader on defense issues in this country.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. WELDON) for yielding me the time, and I thank him for his leadership in this area.

We have moved from the era of confrontation with the former Soviet Union to what I would call the era of engagement, and the engagement needs to be pursued in a number of areas. A couple of areas that are very important to this Member, and I know a lot of others, is the idea of disposal of weapons-grade materials, making sure that all of the ideas of stockpile security that we adhere to are adhered to also in the former Soviet Union.

Also, the idea of making sure that the genius of the scientists' population in the former Soviet Union that put together that massive weapons complex in the weapons that they produced, to make sure that that genius does not migrate to nations that at some point may be adversaries to the United States is of utmost concern to us, and I think that this amendment makes good sense, and the engagement that it promotes is going to serve those ends.

I thank the gentleman and commend him for his leadership and everyone on both sides of the aisle who worked on the amendment.

Mr. SPRATT. Mr. Chairman, I yield 90 seconds to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, one of the motivating forces in my life to enter electoral politics was civil rights, and the other element that I wanted to devote whatever energy I could in terms of politics was nuclear proliferation.

What we are about to do today, I think, may set us on the path that for many of us has been decades in the realizing.

I want to pay tribute especially to the gentleman from South Carolina (Mr. SPRATT). When I think of someone who I believe to be the ideal Member of Congress, ready to deal with Members in every way, in a straightforward and forthright manner, when I think of someone who has a tenacious capacity to pursue his ideals, I think of the gentleman from Pennsylvania (Mr. WELDON), and I think there is an amalgam today of interests on behalf of peace.

I just want to reiterate for the record what the policy will be when the gentleman from Pennsylvania's (Mr. WELDON) and the gentleman from South Carolina's (Mr. SPRATT) work comes to fruition. Greater cooperation, transparency and confidence with the Russian federation regarding nuclear weapons, policy, forestructure, safeguards, testing, proliferation, prevention, infrastructure, production and dismantlement, everything associated with nuclear proliferation in our attempt to deal with it in three-dimensional human terms is in this amendment, and the wording that has been arrived at, because the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from South Carolina (Mr. SPRATT) are not theologians on this floor, they are legislators. Legislators in every good sense of the word, and I am proud to be associated with them.

MOTION TO RISE OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Mississippi (Mr. TAYLOR).

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

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 49, noes 352, not voting 33, as follows:

[Roll No. 139]

AYES—49

Abercrombie
Ackerman
Baldwin
Bartlett
Berry
Blumenauer
Boyd
Brady (PA)
Brown (OH)
Capuano
Clay
Condit
Conyers
Cummings
DeFazio
DeGette
Dingell
Doggett
Evans
Filner
Frank
Hinchey
Holt
Honda
Jefferson
Jones (OH)
Larson (CT)
Lee
Lynch
Markey
McDermott
McGovern
McIntyre
Miller, George
Mink
Obey
Pallone
Pelosi
Radanovich
Shows
Solis
Stupak
Tanner
Taylor (MS)
Tiberi
Towns
Waters
Wu
Wynn

NOES—352

Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Ney
Northup
Oberstar
Olver
Ortiz
Osborne
Otter
Owens
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)

NOT VOTING—33

Boehlert
Burton
Crane
Davis (IL)
DeLay
Ford
Gutierrez
Hall (OH)
Hulshof
Hyde
Jackson-Lee (TX)
Kennedy (MN)
Lewis (GA)
Maloney (NY)
McCrery
Meek (FL)
Millender-McDonald
Nethercutt
Norwood
Nussle
Ose
Oxley
Pryce (OH)
Reyes
Riley
Roukema
Slaughter
Smith (MI)
Stark
Traficant
Watson (CA)
Waxman
Young (FL)

□ 1615

Messrs. GRAVES, RUSH and SCHIFF changed their vote from ''aye'' to ''no.''

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

□ 1615

The CHAIRMAN. The Committee is considering amendment No. 1, as modified, offered by the gentleman from Pennsylvania (Mr. WELDON).

The gentleman from Pennsylvania has 2½ minutes remaining. The gentleman from South Carolina (Mr. SPRATT) has 1½ minutes remaining, and the gentleman from Pennsylvania has the right to close.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT), one of our Ph.D.'s in Congress, who has visited Russia on three or four occasions.

Mr. BARTLETT of Maryland. Mr. Chairman, the Cold War is over, and the United States and Russia are recognizing that our two countries have far more that unites us than divides us. This amendment is one area that we recognize that when we join forces, when we focus on those things that unite us, that both countries and the world are better off for that.

We have spent far too much time focusing on what divides us from Russia and not near enough time focusing on our common interests. This amendment does just that. It should have been done last year, or 10 years ago. Let us not be next year saying we should have done this last year. This is the right thing to do. I urge Members to vote for this amendment.

Mr. SPRATT. Mr. Chairman, I yield 1¼ minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Chairman, I rise in strong support of the amendment, and thank the gentleman from Pennsylvania (Mr. WELDON), the gentleman from South Carolina (Mr. SPRATT), the gentleman from Texas (Mr. TURNER), the gentlewoman from California (Mrs. TAUSCHER), and the others involved in crafting this compromise.

I think this language recognizes the balance that has to be struck in the new dynamic between our country and Russia. Most of this amendment deals with cooperation, with transparency and technology, joint visitation, joint research and development, things that would not have been possible a dozen years ago; and the authors of the amendment deserve great credit for making those possibilities a reality.

The amendment also wisely recognizes, though, that as close as our friendship with Russia is growing, there is still risk. There is still uncertainty, and there is still need for a joint process between the executive branch and those of us in the Congress to recognize and react to emergency circumstances. I hope such circumstances never arise, but if they do, this amendment strikes the proper balance. I urge its adoption by both Republicans and Democrats.

Mr. SPRATT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is a good compromise and a good bill, and I urge support for it on both sides of the aisle.

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

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing, I thank Members on both sides of the aisle for what has become I think one of the most important statements that we will make in this bill about a new era of our security, our security in working together with Russia as partners.

Yesterday a group of Members met in the House of Representatives with a Minister of Atomic Energy, Rumyantsev, from Russia, and he told us that Russia is ready for a new era of transparency, that the days of the Cold War are over. This amendment tests that language. This amendment says, Mr. Rumyantsev, we agree with you, and we are ready for a new era. Open up the test facilities, underground test sites, and laboratories for joint cooperation, and we will do the same. It says that America and Russia truly can be, should be, and will be partners; but it does not do it through rose-colored glasses.

This amendment says in the new century Russia and America together can be key partners, whether it is solving the war in Kosovo, solving the problem in the Middle East, or dealing with security issues, that Russia can help us accomplish our objectives.

Mr. Chairman, I ask Members on both sides of the aisle to support this amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Pennsylvania (Mr. WELDON).

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

Mr. WELDON of Pennsylvania. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania (Mr. WELDON) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part A of House Report 107–450.

PART A AMENDMENT NO. 2 OFFERED BY MRS. TAUSCHER

Mrs. TAUSCHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A Amendment No. 2 offered by Mrs. TAUSCHER:

At the end of section 1014 of the bill (page 200, after line 6), insert the following new subsection:

(c) REPORT ON OPTIONS FOR ACHIEVING, PRIOR TO FISCAL YEAR 2012, PRESIDENT'S OBJECTIVE FOR OPERATIONALLY DEPLOYED NUCLEAR WARHEADS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on options for achieving, prior to fiscal year 2012, a posture under which the United States maintains a number of operationally deployed nuclear warheads at a level of from 1,700 to 2,200 such warheads, as outlined in the Nuclear Posture Review. The report shall include the following:

(1) For each of fiscal years 2006, 2008, and 2010, an assessment of the options for achieving such posture as of such fiscal year.

(2) An assessment of the effects of achieving such posture prior to fiscal year 2012 on cost, the dismantlement workforce, and any other affected matter.

The CHAIRMAN. Pursuant to House Resolution 415, the gentlewoman from California (Mrs. TAUSCHER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Mrs. TAUSCHER).

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

Mr. Chairman, this amendment adds a small but critical requirement to the language in the bill on the Nuclear Posture Review.

As Members know, the Nuclear Posture Review provides Congress with crucial information about the administration's intentions on the country's nuclear strategy, warhead levels and infrastructure over the next 10 years.

Some of the review's comments are positive, such as the restatement of the need to deploy the lowest number of nuclear weapons consistent with our security requirements.

Other findings are more troubling, especially the review's failure to outline significant and verifiable cuts to our nuclear arsenal.

Recent comments by Assistant Secretary of Defense Crouch about warhead reduction that ''there is no such thing as something that is irreversible,'' directly contradict the President's objective stated in Crawford, Texas, in the summit with President Putin last summer.

The credibility of the United States' leadership in the area of arms control will be significantly undermined if we do not live up to the President's proposal to reduce our nuclear arsenal.

The gentleman from Arizona (Chairman STUMP) and the gentleman from Missouri (Mr. SKELTON), the ranking member, took a first and valuable step toward addressing this disconnect.

Indeed, the bill requests clarification of the administration's plans for our strategic force structure, including specific definitions of how many warheads will be dismantled or placed in the ready reserve and associated costs.

I ask for Members' support for an additional requirement to this section mandating a report from the Secretary of Energy on options for achieving the President's objectives for operationally deployed nuclear warheads before 2012.

This is a nonbinding, common sense requirement that simply asks the Secretary of Energy to look at whether the President's arms objective can be achieved in a shorter time frame. Additionally, it is my belief that this

should actually be addressed to the National Nuclear Security Administration, which is a semi-autonomous agency inside the Department of Energy.

Mr. WELDON of Pennsylvania. Mr. Chairman, will the gentlewoman yield?

Mrs. TAUSCHER. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, this side applauds the gentlewoman for her leadership on these issues, and we are happy to accept this amendment in the spirit in which it is offered, and think it will be a productive addition to the bill.

Mrs. TAUSCHER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Chairman, I rise to commend both the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from Pennsylvania (Mr. WELDON) for reaching agreement on what I think is a good amendment to an amendment.

Basically the Nuclear Posture Review raised more questions than it answered; among them, why does it take 10 years to draw down the operationally deployed force; why do we have to maintain a responsive force of the magnitude that was indicated? We may have as many warheads actually deployed in 2012 as we do today. How costly will it be to maintain this force? These are all questions that we need to ask directly, and that is what this amendment will do. It will put these questions back to DOD and get a further addendum or response to clarify NPR on these critical points.

Mr. Chairman, I commend the gentlewoman for offering this amendment, and support it fully.

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

Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. WELDON) for accepting the amendment and appreciate the opportunity to work with the gentleman.

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

The CHAIRMAN. Does any Member wish to speak in opposition to the amendment?

The question is on the amendment offered by the gentlewoman from California (Mrs. TAUSCHER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part A of House Report 107–450.

PART A AMENDMENT NO. 3 OFFERED BY MR. MARKEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A Amendment No. 3 offered by Mr. MARKEY:

At the end of subtitle C of title XXXI (page 352, after line 24), insert the following new section:

SEC. 3146. PROHIBITION ON RESEARCH AND DEVELOPMENT OF NUCLEAR EARTH PENETRATOR WEAPON.

(a) PERMANENT PROHIBITION.—No funds available to the Department of Energy may be used for any development, testing, or engineering of a nuclear earth penetrator weapon.

(b) FISCAL YEAR 2003.—No funds appropriated for or otherwise made available to the Secretary of Energy for fiscal year 2003 may be used for a feasibility study for a nuclear earth penetrator weapon.

The CHAIRMAN. Pursuant to House Resolution 415, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY) for 10 minutes.

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

Mr. Chairman, I have an amendment that is before the House that I would hope as the staffs talk right now we might be able to work out some form of a compromise on; but pending that, the subject is around the whole subject of a robust nuclear earth penetrator.

Now this weapon is one which is contemplated being used as a nuclear weapon to be a bunker buster, but potentially bigger than that, in fact, and will breach this psychological and political barrier that we have established in the world for 57 years that nuclear weapons are not usable.

What my amendment says is that there should be a permanent prohibition; that is, that no funds should be available to the Department of Energy for any development, testing or engineering of a nuclear earth penetrator weapon. The objective, of course, is to say if we moved to that phase of testing, unfortunately, it would most likely result in a breach of the test ban accommodation which has been lived with by the United States and the Soviet Union and the rest of the world for the last 15 years or so.

Since we already have a generation of nuclear earth penetrating weapons, it seems to me it does not make a lot of sense for us to run the risk of sending a signal to the rest of the world that we are trying to dissuade from using these weapons towards the goal of just improving one to make it more usable, but at the same time because of the sensitivity of our relations with Russia, amongst others, in terms of their nuclear testing, but every other country in the world that we are trying to convince that nuclear weapons are unusable, that as we cross this nuclear Rubicon we are sending a very strong signal that the weapons are usable.

So my amendment seeks to stop the testing, stop any engineering or development of such a weapon.

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

Mr. WELDON of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. WELDON) is recognized for 10 minutes.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, we have made a good-faith effort both in the committee and on this floor to reach bipartisan compromise on issues regarding our nuclear policy.

We just completed a vote on a comprehensive program to engage Russia, a program that I think is historic. We just accepted an amendment from the gentlewoman from California (Mrs. TAUSCHER). We agreed to a report that she wants to have issued on the size of our nuclear weapon force over the next dozen years.

But, Mr. Chairman, this amendment in my opinion is a dangerous amendment. There are certain things we cannot discuss on the House floor. I would think before any Member voted on this amendment, they would want to have had the Code Word level briefing that I arranged for Members of the Committee on Armed Services last week.

□ 1630

A number of my colleagues from both sides of the aisle attended that briefing, where at a Code Word level we were given certain information about what appears to be to the Intelligence Community some new movement in the area of nuclear weapons and nuclear materials. We cannot discuss that on the floor of the House because we are in open session. So, therefore, even though Members have access to that information, I would say to you that probably no more than 10 Members of this body, maybe 20, have received the security classified briefing on the implications of this amendment. For that reason alone, this amendment should be defeated.

But, Mr. Chairman, beyond that, this amendment says that the Secretary of Energy cannot even do a feasibility study for a nuclear earth penetrating weapon. If we look at Afghanistan and the wars and the situation we are involved in, one of our biggest problems are deep underground hardened targets. This amendment says we cannot even do a feasibility study. We are not talking about building a weapon. We are not talking about producing something to drop. We are talking about a feasibility study. This amendment says no feasibility study.

Mr. Chairman, this amendment goes way too far. This amendment is more about, I think, a political statement than it is about substance. I would aggressively urge our colleagues to vote ''no.''

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

Mr. SKELTON. I thank my friend from Massachusetts for yielding me this time.

Mr. Chairman, we all know from our experience in Afghanistan that adversaries use caves and bunkers to counter our American conventional strength

and we are right to be concerned that future enemies might use such bunkers to protect weapons of mass destruction. However, the use of nuclear bunker busters is absolutely not the way to go. It is counterproductive.

Using nuclear weapons would spread deadly radiation, putting both American troops in the theater as well as local populations at risk. It would also prevent American troops from entering caves and bunkers to retrieve potentially valuable intelligence. We have been doing that in Afghanistan. Perhaps most significantly, the use of tactical nuclear weapons would mark a dramatic change in United States policy and would undermine our nonproliferation policies around the globe. This is a very needed and a very necessary amendment to proceed on the non-nuclear proliferation effort.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON of New Mexico. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me this time. I rise to oppose this amendment.

The reality is that our enemies are burrowing in their chemical weapons capability, their conventional capability, their command and control biological and nuclear weapons programs. Our current weapons systems cannot destroy targets that are deeply buried in tunnels. They were not designed to. Our enemies know that.

Nuclear weapons are useful precisely because they are unusable. That is the nature of deterrence and the reason that we want to be able to keep these targets at risk. The robust nuclear earth penetrating weapon is being studied as directed by this Congress in the 2001 defense authorization bill. It is not a new nuclear weapon. The question is whether you can take an existing nuclear weapon, package it and encase it in such a way so that it will penetrate the Earth before it explodes in order to hold at risk those hard and deeply buried targets. It does not make it more likely that the President would use such a weapon. It does make it more probable that that weapon would work if he had to use it. Any President should have at his disposal the ability to hold at risk the most important targets that people have who would want to destroy and to hurt us. By holding those targets at risk, we make it less likely that they will hurt us and attack us or our allies with chemical, biological or nuclear weapons.

The President should have options, the options of conventional forces, of precision conventional weapons, and of nuclear weapons that are capable of holding those targets at risk so that we do not have to use them. That is precisely why we need to continue with this feasibility study.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I want to thank the gentleman from Massachusetts for yielding me this time and for his leadership in leading the world, I think, in the right direction.

I rise in strong support of the Markey amendment really to prohibit the development of this nuclear earth penetrator weapon. This weapon poses unacceptable risks. Our own troops would be endangered by nuclear fallout and innocent civilians could be caught in a nuclear crossfire. Furthermore, developing this weapon really does take us down the path of nuclear testing and nuclear proliferation. Where we go, others will follow.

It is bad enough that we have not ratified the Comprehensive Test Ban Treaty. United States nuclear testing would destroy this treaty. The United States cannot preach nonproliferation while escalating the arms race ourselves.

I urge my colleagues to support this amendment. I want to again thank the gentleman from Massachusetts for offering this amendment.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Subcommittee on Research and Development.

Mr. HUNTER. I thank the distinguished gentleman for yielding me this time.

Mr. Chairman, we are in this amendment proposing to kill what could be the centerpiece of a certain deterrent capability that is important to us. We want to send a message to anybody who would strike America, whether on a conventional battlefield or in a terrorist manner, we want them to know that we will hunt them down and find them and, if necessary, dig them out, wherever we have to.

That means no safe havens. One way you ensure that there are no safe havens is to be able to go deep. Unless we do a lot more research and development and we find some quantum breakthrough in conventional systems, to go deep is going to require a nuclear capability. That is a good message to send to people who would hurt this country, because if you look at the array of fixtures that are going to be buried by potential adversaries, you see several things. You see their command and control; you see their development of nuclear, chemical and biological weapons; and, most importantly, you see the people themselves who ordered the strike on the United States.

That is where leadership goes. Leadership, in terms of our potential adversaries, will go deep. They will go as far underground as they possibly can go. They need to know there is no safe haven. That requires that we vote ''no'' on this amendment.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Chairman, I welcome this latest in the acts of leadership my friend and colleague has dealt with in the nuclear area.

I have listened to the arguments of the gentleman from California and the gentlewoman from New Mexico. They are very honest. They are really talking about obliterating the distinction between nuclear and non-nuclear weapons that has been a centerpiece for 50 years. What they say is if they threaten us, we will go after them, we will find them.

What we are being told is that we should develop a nuclear capacity to respond to non-nuclear threats. We are being told that conventional threats will call from America a nuclear response. Not only is that greatly unnecessary, it will further destabilize the world. We have been trying to preach non-nuclear proliferation, but the town drunk is a poor advocate for temperance. We cannot simultaneously obliterate the distinction that has existed for the entire period between nuclear and non-nuclear weapons. We cannot threaten, as we have heard, a nuclear response to a non-nuclear attack and then still have any credibility in preaching temperance.

Secondly, we have said in Afghanistan, in Iraq, we are these days likely to be in the posture not of war against a people, say, as in World War II but in an effort to rescue a people from an oppressive government. How welcome will our wagon be when it comes to nuclear arms? Do we tell the people of Afghanistan, do not worry, we will free you from the Taliban by using nuclear weapons within your country. Do not worry, we will overthrow Saddam Hussein with nuclear attacks in Iraq.

I think you undercut the whole notion that America can be coming to the rescue of the victims of oppression. The United States is hardly a pitiful giant weakened without nuclear weapons. We just saw in Afghanistan no shortage of overwhelming American power. It was not a lack of force, a lack of potency. To destroy the distinction between nuclear and non-nuclear weapons as we have heard is with very grave error.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself 30 seconds.

First of all, Mr. Chairman, we are not talking about a new nuclear weapon. That is not the discussion here. We are talking about an attempt to repackage an existing nuclear weapon for a new threat that we have to deal with. We know the Russians have 13,000 tactical nuclear weapons.

If you really want to stop proliferation, I would like to see my colleague from Massachusetts offer an amendment to negotiate for a serious reduction of tactical nuclear weapons. These tactical nuclear weapons are a real threat to us. The Russians have 13,000 of them.

Mr. Chairman, I yield 15 seconds to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, let me just say that there has been a policy among a number of nations in the Western democracies, including our allies, that would respond to chemical or

biological attack with nuclear systems. We have never foreclosed that.

Mr. MARKEY. Mr. Chairman, I yield 10 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Chairman, I think the gentleman from Pennsylvania invited either myself or my colleague to offer an amendment on nonproliferation, but the problem is that the way the Committee on Rules has been working, at your behest, it would not have been in order. That is why we did not bother to try.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself 5 seconds.

I felt that same way just a few short years ago. I understand the gentleman from Massachusetts' frustration.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the Markey amendment to halt development, testing or use of so-called mini nukes. I thank my colleague from Massachusetts for his continuing leadership on nonproliferation issues.

Let us make no mistake about it. Developing these mini nukes would make their use more likely, which would make a nuclear war more likely. The fact is if we sanction their development, we only provide legitimacy for other nations to do exactly the same.

My constituents in Marin and Sonoma Counties in California, like most Americans, have made it very clear that they support a reduction in America's nuclear arsenal. They are rightly demanding that we take a reasoned approach toward nuclear weapons policy, not a renewed buildup of nuclear arms. Without the Markey amendment, United States nuclear policy will take a U-turn that would prompt more nuclear competition, threaten our national security, and undermine nonproliferation efforts.

Reject this vision. Support the Markey amendment.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, this is not a mini nuclear weapon. I do not know where that term came from, but it is totally incorrect. A deep earth penetrating weapon is a large weapon designed to do damage. In fact, in our committee we called for a report, again with the bipartisan spirit of our members on the other side, for a study of the effects of this. This amendment should be rejected.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. I thank the gentleman for yielding me this time.

Mr. Chairman, I have always found it rather odd that some of our most difficult battles in the area of national security are preventing our own people by limiting our options and tying our hands behind our back.

There are some military capabilities that we may decide are not worth the time to pursue, and there are some capabilities that in the priority of things we may want to leave behind. But I find it very troubling that some people do not even want us to explore options which could be critical for our future national security.

Frankly, I am skeptical that any Member of this body can know for certain all of the circumstances that any President in the future will face in a world full of chemical and biological and radiological and nuclear weapons, and we want to say we are not even going to consider those options to deal with all of those things. I think that would be a mistake.

To have a credible deterrent, that means political adversaries, and even friends have to believe in that deterrent. If we say up front, if you burrow down in the ground we cannot touch you because our conventional capabilities have obvious limitations, and so if we say we are not even going to consider going after buried targets in any other way, then we are simply saying, ''Go to it. We'll leave you alone.'' We are encouraging people to bury their communication, their factories, their silos, and we will not be able to do anything about it.

□ 1645

Mr. Chairman, we know Russia has buried targets deep. We have seen what al Qaeda has done in Afghanistan. We know Iraq is burying things. So to take an option off the table, to say we are not even going to explore it, that we are going to tie our own hands behind our backs, even in a world with all of these difficult, complex situations I think would be a tragic mistake. We should reject the amendment.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. WELDON) has 1 minute remaining. The gentleman from Massachusetts (Mr. MARKEY) has 1¾ minutes remaining. The gentleman from Pennsylvania (Mr. WELDON) has the right to close.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, the question is not whether we should permit targets to be buried deep; the question is whether we are going to permit peace to be buried deep.

We have a nonproliferation treaty that stops nuclear weapons from becoming a sword of Damocles hanging over this world. We had an ABM Treaty that stopped the United States and Russia from engaging each other. We had START II and START III that was the basis of getting rid of nuclear weapons. We had a Comprehensive Test Ban Treaty waiting to be signed. Now, we have gone from that kind of a hopeful approach to sustain the world to an approach that puts the world at an abyss, to an approach that envisions target nations, nuclear first strike, bunker busters.

It is time that we took a stand for peace. It is time that we took a stand for the continuation of life on this planet. Why should that be hard to do, even for the Congress?

Mr. MARKEY. Mr. Chairman, I yield myself the remaining time.

We do not use biological weapons in Afghanistan. We do not use chemical weapons in Afghanistan. We do not use this present generation of nuclear earth penetrators in Afghanistan because we know it is wrong, and because we just have to ask al Qaeda how well our existing conventional bombs did in destroying them. I have not heard anyone say that there was some problem that needed nuclear weapons to be dropped on Afghanistan.

The consequences of opposing the Markey amendment will be that a new generation of nuclear testing, breaching the test ban between the United States and the Soviet Union, sending a signal to countries all around the world that nuclear weapons are now usable, even though we do not need them in Afghanistan, we do not need them in Iraq; we can destroy, level those countries. If we use nuclear weapons in Tora Bora, it will only be in order to ensure that the rubble is bouncing, not that we have destroyed the entire country already with conventional weapons.

This is the wrong road to go down. We are breaching a barrier which would be a very serious mistake for our country.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, we have just completed almost an hour's worth of work of starting a new era in our relationship with Russia on nuclear weapons. It has been bold. It has been bipartisan. It has been bilateral. We have shown, without any doubt, that we are willing to move into a new era. But, Mr. Chairman, as we saw on September 11, there are those people who do not play by the rules. Anyone who would take out almost 3,000 lives in the most unbelievable way thinkable would not hesitate to do work in one of 10,000 underground bunkers and caves around the world, most of which are in our adversaries' territory, to develop and potentially use weapons of mass destruction. This amendment would go to the extreme. It would prevent the President from even doing a feasibility study.

This is not about peace. I am a teacher by profession. Nobody wants peace more than I do. We do not have a handle on peace with a certain few in this body. This is about giving the President legitimate ability to protect us against those threats that we see emerging in the 21st century. I ask my colleagues to vote no on the Markey amendment.

Ms. LEE. Mr. Chairman, I rise today in strong support of the Markey amendment, and I want to thank my colleagues, Mr. RAHALL and Mr. MARKEY, for their leadership in standing up for the environment.

The Defense Authorization Bill as written grants the Department of Defense sweeping the blanket exemptions to existing environmental laws.

The American public doesn't want fewer environmental protections. They want more. Eighty-five percent of registered voters surveyed on this question believe that the Department of Defense should have to follow the same environmental and public health laws as everyone else.

We have already seen efforts to roll back protections on our air and water. It is time to stand up and put a stop to these assaults on our environment.

Biodiversity is essential to our national heritage. We have an obligation to our children and to their children to protect that biodiversity.

And so, I urge you to adopt this amendment. It does not impose any unreasonable restrictions on the Department of Defense. It simply ensures that the U.S. government will abide by existing U.S. laws.

MOTION TO RISE OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion to rise offered by the gentleman from Mississippi (Mr. TAYLOR).

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

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 51, noes 360, not voting 23, as follows:

[Roll No. 140]

AYES—51

Abercrombie
Ackerman
Baldwin
Berry
Blumenauer
Bonior
Boyd
Brady (PA)
Capuano
Clay
Condit
Conyers
DeFazio
DeGette
Delahunt
Dingell
Doggett
Filner
Frank
Hinchey
Honda
Jefferson
Johnson, E. B.
Jones (OH)
Larson (CT)
Lee
Lynch
Markey
McDermott
McGovern
McIntyre
Miller, George
Mink
Oberstar
Obey
Olver
Pallone
Pelosi
Roemer
Schakowsky
Shows
Slaughter
Solis
Stark
Stenholm
Stupak
Tanner
Taylor (MS)
Towns
Waters
Wu

NOES—360

Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Ney
Northup
Norwood
Ortiz
Osborne
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Strickland
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—23

Boucher
Burton
Cannon
Cox
Crane
Davis (IL)
Dooley
Gutierrez
Hall (OH)
Jackson-Lee (TX)
Kennedy (MN)
Lewis (GA)
Millender-McDonald
Nethercutt
Nussle
Ose
Reyes
Riley
Roukema
Smith (MI)
Traficant
Watson (CA)
Waxman

□ 1719

Mr. LEWIS of Kentucky changed his vote from ''aye'' to ''no.''

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

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

RECORDED VOTE

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

A recorded vote was ordered.

Mr. CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair will reduce to 5 minutes the time for a recorded vote on amendment No. 1.

The vote was taken by electronic device, and there were—ayes 172, noes 243, not voting 19, as follows:

[Roll No. 141]

AYES—172

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gutierrez
Hastings (FL)
Hill
Hilliard
Hinchey
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller, George
Mink
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Ross
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)

Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watt (NC)
Weiner
Woolsey
Wu
Wynn

NOES—243

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (TX)
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—19

Burton
Cannon
Crane
Davis (IL)
Hall (OH)
Jackson-Lee (TX)
Kennedy (MN)
Lewis (GA)
Millender-McDonald
Nethercutt
Ose
Reyes
Riley
Roukema
Smith (MI)
Traficant
Watson (CA)
Waxman
Young (AK)

□ 1738

Mr. CROWLEY and Mr. FORD changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PART A, AMENDMENT NO. 1, AS MODIFIED, OFFERED BY MR. WELDON OF PENNSYLVANIA

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 1, as modified, printed in part A of House Report 107–450 offered by the gentleman from Pennsylvania (Mr. WELDON) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 362, noes 53, not voting 19, as follows:

[Roll No. 142]

AYES—362

Abercrombie
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NOES—53

Ackerman
Baldwin
Becerra
Bonior
Capuano
Carson (IN)
Clay
Clayton
Condit
Conyers
DeFazio
DeGette
Dingell
Doggett
Farr
Fattah
Filner
Frank
Hinchey
Holt
Honda
Inslee
Johnson, E. B.
Jones (OH)
Kucinich
Lee
Lofgren
Markey
McDermott
McGovern
McKinney
McNulty
Meehan
Miller, George
Mink
Nadler
Neal
Olver
Owens
Paul
Payne
Pelosi
Rangel
Sanders
Sandlin
Schakowsky
Slaughter
Solis
Stark
Tierney
Waters
Watt (NC)
Woolsey

NOT VOTING—19

Aderholt
Burton
Cannon
Crane
Hall (OH)
Jackson-Lee (TX)
Kennedy (MN)
Lewis (GA)
Millender-McDonald
Nethercutt
Ose
Reyes
Riley
Roukema
Smith (MI)
Traficant
Watson (CA)
Waxman
Young (AK)

□ 1749

Mr. MEEHAN and Ms. SLAUGHTER changed their vote from ''aye'' to ''no.''

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Ms. RIVERS. Mr. Chairman, on rollcall No. 142, I should have voted "no." I mistakenly voted "yea."

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part A of House Report 107–450.

PART A AMENDMENT NO. 4 OFFERED BY MR. TIERNEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A amendment No. 4 offered by Mr. TIERNEY:

At the end of subtitle C of title II (page 49, after line 17), insert the following new section:

SEC. 234. PROHIBITION ON USE OF FUNDS FOR SPACE-BASED NATIONAL MISSILE DEFENSE PROGRAM.

No funds appropriated for fiscal year 2003 for the Department of Defense may be used for a space-based national missile defense program.

The CHAIRMAN. Pursuant to House Resolution 415, the gentleman from Massachusetts (Mr. TIERNEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. TIERNEY).

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

It is clear from the size of this Department of Defense budget, including the $48 billion-or-so increase, that the administration and others here are using the circumstances of our involvement in Afghanistan and the circumstances of September 11 to put money into this budget for all manner of programs whether or not they deal with priority threats to this country now and here.

Every Member of this body is concerned and wants the best defense possible for this country. We all want support for the men and women who serve. We want fair pay, decent housing, working weapons. We are collectively concerned with the security of this country, and we need to be certain we allocate our limited resources toward programs that target those threats and risks which are the most likely to endanger us now and in the near future.

This amendment then focuses on just that. It is to make the point that this bill is a repository for already-repudiated programs, some of which our own Secretary of Defense is surprised to still see in this bill. The amendment does it by prohibiting the Department of Defense from using funds this fiscal year for space-based national missile defense, or Star Wars. Not sea based, not air based, not land based, not components of any of those. We should debate those matters. But this amendment focuses on space-based, or Star Wars, programs, the same concept which was here before, on which we spent billions of dollars and lost that money.

This bill authorizes $54 million for a Boost Program Space-Based Lasers, which act as interceptors in space, as well as the kinetic physical interceptors. This space-based interceptor has gone through two iterations already. They are behind schedule and over budget. Testing for this space-based laser system has been pushed back indefinitely. And that is just the testing for the system. Nobody can even predict when such a space-based system might actually be deployed.

How does continued funding for this program serve us towards a more agile force? We should not repeat the past errors, like Safeguard, which was the first stab at a failed missile defense space wars system in the 1970s. Rushing to fund an untested program with the questionable capabilities of this one makes no sense. It jeopardizes strategic judgment and wastes our much-needed money.

At the very least, we should be alarmed that we are not taking the time as a Nation to have a thoughtful dialogue on this and the ramifications of this national missile defense system. There are billions in this budget that have little to do with our priority realistic threats to our security. This Star Wars program is but one small part of that.

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

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

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

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

My colleagues, we are in space. We are in space in a way that is inextricably linked with not only our missile defense system but almost all of our systems.

If we take a look at the architecture for our space systems, we have in space literally everything from weather and the environment, to navigation, to surveillance and reconnaissance, to missile warning, to communications. The successful intercepts that we have made now out of the Kwajalein Test Range took place 148 miles above the surface of the Earth.

I want to read the amendment of my friend, the gentleman from Massachusetts (Mr. TIERNEY): "No funds appropriated for fiscal year 2003 for the Department of Defense may be used for a space-based national missile defense program."

Now, in the first place, we simply have a missile defense program, not a national missile versus a theater missile defense program, because we are now dealing with a number of missiles which have varying rates of speed and distances. For example, we have the old Model T scud that goes fairly slowly, several hundred miles, all the way up to the fast-moving ICBM that will go several times the speed of a high-powered rifle bullet when it reenters the atmosphere aimed at an American city.

So we are putting in place an architecture which is layered, which will give us, hopefully, several shots at these missiles as they progress toward either our troops in theater or the United States of America and our cities. We have to have space assets to be able to intercept those incoming missiles.

Now, one thing we have seen in this debate today is what I would call the new imposition of Marquis of Queensbury rules on our side. We just had an amendment in which the other people may drive an airplane into an American tower and destroy thousands of American civilians, but it is against the rules for us to go after their leadership if they are buried deep underground and we use a nuclear penetrator. That is not Marquis of Queensbury rules. And no matter what the other side does, we must play by the Marquis of Queensbury rules.

Well, we are already in space. It does not make any sense to have a very broadly worded amendment that, if we take it literally, would ban the very systems that we are testing right now.

There is another aspect of this, and that is this: we had the predator over in Afghanistan, and the predator is our unmanned aircraft. And from that aircraft we take certain recon capability, certain sensors, and we target the enemy. And then we use another platform, whether it is from a ship or a plane or a land-based unit, to hit that enemy that was targeted by the predator. And our war-fighting commanders, who were trying to win the war over there, with as few Americans as possible being killed, said this: They said, maybe we should just use that airborne unit up there. Instead of just using that for information and relaying that information to the ground, why do we not just put a hell fire missile on that particular UAV and go ahead and strike the enemy with the UAV? In other words, let us use this recon unit for both a reconnaissance and for the attack shot.

So we are becoming more efficient in the way we use technology. So the idea that we have to play by some obscure Marquis of Queensbury rules that says we cannot use space to stop a missile that may be incoming to an American city does not make any sense.

So I would just urge all Members to vote against this amendment. This is a dangerous amendment. If taken literally, it freezes our present programs in place.

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

MOTION TO RISE OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion to rise offered by the gentleman from Mississippi (Mr. TAYLOR).

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

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 46, noes 356, not voting 32, as follows:

[Roll No 143]

AYES—46

Abercrombie
Baldwin
Berry
Blumenauer
Bonior
Boyd
Brady (PA)
Capuano
Condit
Conyers
Davis (IL)
DeGette
Dicks
Dingell
Doggett
Filner
Frank
Hill
Holt
Honda
Jefferson
Johnson, E. B.
Jones (OH)
Larson (CT)
Lee
Lynch
Markey
McDermott
McGovern
McIntyre
Miller, George
Mink
Oberstar
Olver
Pelosi
Rush
Shows
Slaughter
Solis
Stark
Tanner
Taylor (MS)
Towns
Waters
Weiner
Wu

NOES—356

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (TX)
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)

NOT VOTING—32

Ballenger
Bentsen
Berman
Boucher
Burton
Cannon
Crane
Delahunt
Diaz-Balart
Greenwood
Hall (OH)
Hansen
Kennedy (MN)
Lewis (GA)
Lipinski
Meek (FL)
Millender-McDonald
Murtha
Nethercutt
Ney
Ose
Reyes
Riley
Roukema
Sanders
Simpson
Souder
Stump
Traficant
Watson (CA)
Waxman
Young (FL)

□ 1826

Ms. LOFGREN, Mr. BEREUTER and Mr. CRAMER changed their vote from ''aye'' to ''no.''

So the motion was rejected.

The result of the vote was announced as above recorded.

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

Mr. SPRATT. Mr. Chairman, I would like to engage the gentleman from Massachusetts in a colloquy about his amendment.

The gentleman from California was just showing us a number of space-based systems, satellites and sensors, that are in one way or another connected with ballistic missile defense.

Is it the gentleman's intention in this amendment to prohibit funding for space-based sensors that are instrumental to the airborne laser and ground-based and sea-based ballistic missile defense systems?

Mr. TIERNEY. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. No, the amendment does not affect space-based sensors. It only affects space-based interceptors.

Mr. SPRATT. So, specifically, your amendment would not prohibit or affect funding for what we call SBIRS-High, space-based infrared sensors, SBIRS-High or SBIRS-Low sensor programs like this?

Mr. TIERNEY. The gentleman is correct.

Mr. SPRATT. I thank the gentleman for these clarifications. Therefore, the gentleman's amendment would prohibit funding for the space-based ballistic missile defense interceptors, $54 million is requested, but it would not affect sensors at all.

Mr. TIERNEY. The gentleman is correct.

Mr. SPRATT. I thank the gentleman for the clarification. The space-based interceptor, as some know, has gone through a couple of iterations, both of which have eventually been discarded. I think the Missile Defense Agency has already a full plate. It ought to stay focused on ground-based and ship-based interceptors. For that reason, with this clarification, I can support the amendment.

Mr. HUNTER. Mr. Chairman, I yield myself 30 seconds.

The problem here is we are not dealing with the amendment as the gentleman from Massachusetts would rewrite it. We are dealing with the amendment as it is written, because that is the amendment that is going to be dealt with by DOD lawyers. It says, ''No funds appropriated for fiscal year 2003 for the Department of Defense may be used for a space-based national defense missile program.''

The point is we have to deal with the law as it is written, not as he would rewrite it. If he is going to rewrite it, I would recommend he come back next year with another text. This thing would basically put a freeze on the programs that we have right now.

Mr. TIERNEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, space-based missile defense is the true faith-based initiative because it takes a mighty big leap of faith to believe we can master the technology, distinguish the decoys and achieve perfection.

Of course, in the real world this spacey shield idea has been rather hit or miss, mostly miss, since you need perfect weather and a honing beacon on the incoming missile for it to work. But the experience never seems to faze those who have seen so many Star Wars sequels that they abide by the questionable principle, ''build it and it will work.'' I prefer the wisdom of Dr. Steven Weinberg, a Nobel Prize-winning physicist at the University of Texas, who says this system will ''worsen our security'', and that of

former Defense Secretary William Perry, who warned that ''a relatively small deployment of defensive systems could have the effect of triggering a considerable nuclear arms race.''

If terrorism is now our greatest threat, if we have learned anything from September 11, we know an ICBM is not the most likely way to wreak devastation and that putting so many more taxpayers' dollars in this one NMD basket makes so little security sense.

We can spend billions trying to build a shield to blunt every sword or we can invest our resources and diplomacy more wisely to keep the sword, or missile from ever being drawn.

□ 1830

Mr. TIERNEY. Mr. Chairman, I yield 1 minute to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Tierney amendment to ban spending on space-based national missile defense systems in fiscal year 2003. Before funding space-based weapons, we should have a consensus on the wisdom of space-based warfare and today there is no such consensus.

The Missile Defense Agency has requested $35 million to do R&D on a space-based laser which has not completed concept definition and was killed by the House Committee on Appropriations last year. The administration wants to resurrect space-based kinetic interceptors to shoot down missiles in the boost phase. This approach has been tried and rejected twice before on technological and cost grounds.

The Missile Defense Agency should focus on getting the most mature systems like PAC 3 and THAAD to the field to protect our troops, not to invest in systems that will make outer space the next battlefield.

Mr. Chairman, I urge support for the Tierney amendment.

Mr. HUNTER. Mr. Chairman, I yield 3½ minutes to the gentleman from Pennsylvania (Mr. WELDON).

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, this is a 1980s amendment; Ronald Reagan was President. The term ''Stars Wars'' is again resurrecting itself. It has no relevancy to what we are doing today. This is not a discussion of whether or not we are going to deploy a strategic defense initiative. That discussion is over; it ended in the 1980s and 1990s. There is no national missile defense, so the amendment is not relative.

In fact, if we take this amendment, it is so poorly worded, which is why the gentleman from South Carolina (Mr. SPRATT) had to get clarification, because even he has concerns, but to get clarification, he is trying to qualify some things. It is so poorly worded we could in fact end the only joint program we have with Russia. Does the gentleman know about the RAMOS program which the Russians proposed that we do, which Carl Levin on the Senate side led the fight to restore? That program is 2 satellites. Under the gentleman's amendment, we cut the funding for the RAMOS program because, heaven forbid, satellites are in space.

But wait a minute. What about all of my colleagues here who care about Israel's security? We funded with our money the Arrow program. We spent almost $500 million on Arrow, the most successful missile defense program operating today.

Well, guess what? Maybe the gentleman does not know this, but we are now retrofitting Arrow so it can interact with our systems. So what the gentleman wants to say is no more national missile defense.

Well, guess what? To Israel, Arrow is their national missile defense, and we funded it.

So the fact is that while the gentleman may have wanted to end one specific program, the amendment is so vague that it applies to everything, and it really does not make any sense. It really was designed for a Ronald Reagan-era debate when Stars Wars could be used like Darth Vader, that somehow we were advocating some obscene process to start war in space. That is not the case.

We have a very deliberate program that has been supported by Democrats and Republicans because we have confidence, perhaps more than ever, in the director of our Missile Defense Agency. General Kadish is respected by Democrats and Republicans for giving us a thoughtful, interconnected, multi-layered approach to missile defense. There is no more national missile defense. It does not exist. It is no longer a term used in the jargon. To say somehow we are going to end it is a misnomer.

In terms of space, if we ended the space assets, whether it is airborne or higher, we would basically end a whole ton of programs that are now under way, and we would deny eventually the ability of Israel to do what she is going to have to do. We cannot have it both ways on this debate. If my colleagues want to defend the people of Israel against the Shahab III missile from Iran, which is there today, Israel cannot shoot that missile down midstream. Because like the Patriot, it will rain on the people. Israel needs to take down that Scud missile when it is launched. We cannot do that without assets that allow us to take it out in the boost phase. That is going to eventually require some type of space-based assets.

So we are having a debate for the 1980s. Let us all join hands and sing peace songs and let us all hug each other and say we are all for peace, but this amendment is absolutely outrageous. I encourage my colleagues to vote no, and let us sing Kumbaya together in voting no.

Mr. TIERNEY. Mr. Chairman, I am told the gentleman is like that all the time, so I will not carry on, except to note that the chief investigator of the director of Operations, Testing and Evaluation has said that the deployment of this is so far into the future, it is beyond the horizon.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Actually, Mr. Chairman, there are some people who believe that the world does have the possibility to live in peace and that the instrumentalities of violence will eventually give way to human reason and that our ability to talk to each other as human beings may be the basis for peace in the world as opposed to weaponizing space.

The gentleman's amendment is well taken because, according to an Air Force briefing, the space-based laser is being contemplated for anti-satellite missions, denying access to space, disrupting satellite communications, knocking out high altitude aircraft, or unmanned aerial vehicles. These missions go far beyond intercepting missiles, and they echo the Quadrennial Defense Review's call for the United States to exploit space for military purposes, and the Air Force's wish in a Joint Vision 20/20 document for full spectrum dominance in space.

What colossal arrogance it is to assume that we can seize the high heavens and control the world through space. Yes, work for peace on earth, and when we do that, we will not have to worry about a later generation creating peace in space.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume to just remind my colleagues that when we are considering this amendment and we consider all of the things that our military uses that are space-based right now, right from a marine platoon leader's GPS, it tells him where he is, to the recon satellites that we have to, yes, the cueing system that we are going to have to hopefully be able to intercept missiles before they impact our cities, I think we are going to come to the conclusion that the American people do not have too much tolerance for the argument that is being put forward.

There are no people in space. There are people in those towers that got hit by those incoming planes. If we ask the American people would you accept a space-based system that might have protected the Twin Towers, they probably would say yes. We do not care if we are violating the Marquis of Queensbury rules by somehow using assets that are in space. So this is an argument that I think should be given short shrift by the American people. We are in space, other nations are in space, and the idea that we are going to take from General Kadish, who Democrats and Republicans trust and feel is a good steward of this program, the idea that we are going to take one of his options that he has laid out to

test, we are going to move it off of the table because we want to impose our judgment in place of his judgment is not a good thing.

We have given him this set of options. We have let him pick them. We are going to let him go through with the test. We have a robust testing schedule ahead of us. He is going to throw the losers out and reward the winners by trying to get something that can stop incoming ballistic missiles in the next 4 to 5 years. That is a good goal. We should leave this package that he has intact. Let us let him make some decisions and let us let General Kadish have some discretion. Please vote no on this.

Mr. TIERNEY. Mr. Chairman, it is Mr. Kadish's plans, which the director of Operations, Testing and Evaluation said had no testing regime that anybody could trust or that would work.

Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

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

Mr. HOLT. Mr. Chairman, while there are many things in the defense authorization bill that I support, national missile defense is not one of them, and the gentleman from Massachusetts is seeking to eliminate one of the more senseless parts of the supposed national missile defense system.

The proposed missile defense system would not work as designed, as wishing will not overcome the physics. It could be confused with the decoys, it could be bypassed for suitcase bombs, pickup trucks, sea-launched missiles. It would be billions of dollars down the drain. But it is not just a diversion of resources. It is worse than a waste. Simple strategic analysis tells us that provocative yet permeable defenses are destabilizing and would reduce our security.

Americans have been awakened in recent months to threats to our national security and they understand that a space-based missile defense will not help. Americans have learned in recent months that we need anthrax defense, we need container ship defense, we need bridge and tunnel defense. We do not need space-based national missile defense.

The CHAIRMAN. The gentleman from California (Mr. HUNTER) has 15 seconds remaining. The gentleman from Massachusetts (Mr. TIERNEY) has 2½ minutes remaining.

Mr. TIERNEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, I rise in support of the Tierney amendment to prohibit the Bush administration from spending taxpayer dollars on a space-based, 21st century version of a Stars Wars missile defense system.

The simple question we should always ask is does this system make us safer? Are my children and my grandchildren safer if we spend these millions of dollars? I believe the answer is no. Not now, and not in the future.

Today we do face some very real threats. Warnings are issued on a regular basis of possible terrorist attacks. Interceptors from space are not going to help us. We need better intelligence to intercept phone conversations and shoe bombs and biological weapons at our airports, seaports, trains and highways.

Long-range, weaponizing space, bringing weapons into another dimension, is not a formula for security. Rather, as the Union of Concerned Scientists contend, such a move destabilizes arms control as we know it.

The only Stars Wars any Members of this Congress should see will be at a theater near you on May 16. I strongly urge a yes vote on the Tierney amendment.

Mr. TIERNEY. Mr. Chairman, I yield the remaining time to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Chairman, I congratulate the gentleman from California on his debating tactic. He has me focused on how that space-based interceptor was going to stop the attack on the World Trade Center when no one knew the attack was coming. Maybe it has psychic powers. So I do not know what else I am supposed to talk about.

Except I would note that I was struck, when forced to defend this notion of a space-based system, we are told that it is for Israel. I have to say, in addition to all of Israel's other problems, getting schlepped into every defense debate when my colleagues are short of an argument seems to me an unnecessary burden on them. Yes, people are prepared to deal with the Arrow and support the Arrow.

As to the gentleman's amendment, it is not perfectly worded because of the process we have. He had another amendment, a very specific amendment that the Committee on Rules kept out. If we were in a normal situation, we could have amended the amendment. It is clear what is intended. If this amendment passes and goes to conference, the colloquy will be carried out.

The question is this: Everywhere but on the floor of the House, people on the other side talk about how we are going to have these space-based interceptors that are going to come down and probably knock down the planes at the World Trade Center when we did not know there were planes that we should have been going after, and do all of these other things. The fact is that we do not believe that putting billions and billions of dollars, when we are already underfunding all manner of other priorities, into a space-based system makes sense.

I have heard people say if we do not do this, we are going to encounter a space-based Pearl Harbor. Well, fortunately, there is no space-based Japan of 1941. We have it to ourselves.

Finally, I want to say, Mr. Chairman, time and again we are told America is terribly weak and we have to spend all of these billions. That is totally at variance with the reality of a very strong America, and the need to spend these additional billions on these ill-thought-out programs does not exist.

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the testimony when General Eberhardt was before our committee, and a question was put to him as to what is of utmost importance for the future, his answer was what we call SBIRS, Space-Based Infrared System.

□ 1845

I think that is very, very important to the defense of our country, based upon General Eberhardt's comments to us that day.

Now, based upon the colloquy between the gentleman from Massachusetts (Mr. TIERNEY) and the gentleman from South Carolina (Mr. SPRATT), it is apparent that the SBIRS, or the space-based infrared systems, are exempt from the language and the intent of this amendment, which allows me, based upon that, to support this amendment.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Indiana.

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

Mr. ROEMER. Mr. Chairman, I thank my good friend, the gentleman from Missouri, for yielding to me.

I want to start by applauding my friend, the gentleman from California (Mr. HUNTER); my friend, the gentleman from Pennsylvania (Mr. WELDON), and this side of the aisle for putting together a good bill that I rise in strong support of.

I rise in strong support of the ability of the gentleman from Mississippi (Mr. TAYLOR) or anybody else in this body to stand up and offer motions to adjourn because they have not had the opportunity to offer an important amendment.

I rise in strong support, Mr. Chairman, of the principles in this great House of free debate and free speech on a bill that has been on this floor in the past for 2 and 3 weeks, yet somehow we want to get it through in hours today.

There are very many important amendments that were denied the possibility of being debated in the Committee on Rules on this floor. Why is that important? Back in 1969, a man by the name of Robert Wilson, the first director of the Fermilab, a particle physics facility, was asked to testify before Congress.

Congress asked him, What does your testimony and your lab have to do with the defense of this country? And here is what he said: ''This new knowledge has all to do with honor and country, but it has nothing to do directly with defending our country, except to make it worth defending.''

Now, ''make it worth defending'' is when we can have the amendment of the gentleman from Mississippi (Mr. TAYLOR) on base closure debated on the floor; when we can have a Crusader missile amendment, which even the Secretary of the Defense Department wants to eliminate, debated on this floor. That is in the best interests of this country.

The Secretary of Defense has said we can save the taxpayer $11 billion, yet the Committee on Rules, run by the Republican Party, said they are going to deny five different amendments the opportunity to be debated on this floor.

Mr. Chairman, when those terrorists attacked our country in New York City and at the Pentagon, they attacked more than our people and more than our buildings. They attacked the principles of free speech. They attacked what we stand for in this country.

Let us not let the people's House deny the people of this great House the opportunity to offer their amendments. Let us let the gentleman from Mississippi (Mr. TAYLOR) offer that amendment, and let us give the taxpayer the opportunity for an amendment to save $11 billion.

Mr. SKELTON. In conclusion, Mr. Chairman, I again reiterate, based upon the colloquy between the gentleman from South Carolina (Mr. SPRATT) and the gentleman from Massachusetts (Mr. TIERNEY) and those concerned about the future of the SBIRS system, I can fully support the amendment.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time.

Just to conclude, Mr. Chairman, this is a three-sentence amendment. When it takes a colloquy to explain what a three-sentence amendment means, we know we are in trouble.

This amendment, as it is written, would freeze our present programs with respect to testing missile defense. Please vote ''no'' on this amendment.

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the Tierney amendment. Considering the poor results that recent N.M.D. tests have had, it's mind-boggling that funding for a national missile defense system is still being debated.

Since 1940, the U.S. has spent $5.8 trillion dollars on nuclear weapons programs . . . more than on any other single program, except Social Security! The U.S. has already spent more than $100 billion on missile defenses with little to show—so why do we keep throwing good money after bad?

Mr. Chairman, where are our priorities? Instead of investing in missile defense programs—we should be spending our scarce financial resources on our real domestic needs . . . like our children's education; our seniors, and their health care; our families and their financial security.

If this Congress wants to really increase U.S. security, we must invest in people, not weapons.

I urge my colleagues to support the Tierney amendment.

MOTION TO RISE OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion to rise offered by the gentleman from Mississippi (Mr. TAYLOR).

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

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 48, noes 356, not voting 30, as follows:

[Roll No. 144]

AYES—48

Abercrombie
Baldwin
Berry
Blumenauer
Bonior
Boyd
Brady (PA)
Capuano
Clay
Condit
Conyers
DeGette
Delahunt
Dingell
Doggett
Filner
Frank
Hastings (FL)
Hill
Hinchey
Holt
Honda
Jefferson
Johnson, E. B.
Larson (CT)
Lee
Lynch
Maloney (NY)
Markey
McDermott
McGovern
McIntyre
Miller, George
Mink
Oberstar
Olver
Pelosi
Schakowsky
Shows
Slaughter
Solis
Stark
Tanner
Taylor (MS)
Towns
Waters
Watt (NC)
Wu

NOES—356

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilliard
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—30

Bartlett
Boehner
Burton
Cannon
Crane
Dooley
English
Gallegly
Hall (OH)
Hilleary
Hinojosa
John
Kennedy (MN)
Lewis (GA)
McCrery
Millender-McDonald
Nadler
Napolitano
Nethercutt
Ose
Oxley
Reyes
Riley
Roukema
Stupak
Thomas
Tierney
Traficant
Watson (CA)
Waxman

□ 1917

Ms. McCOLLUM and Messrs. WYNN, BRADY of Texas and Kingston changed their vote from ''aye'' to ''no.''

So the motion to rise was rejected.

The result of the vote was announced as aboved recorded.

PART A AMENDMENT NO. 4 OFFERED BY MR. TIERNEY

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 159, noes 253, not voting 22, as follows:

[Roll No. 145]

AYES—159

Abercrombie
Allen
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Duncan
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lofgren
Lowey
Luther
Lynch
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller, George
Mink
Moore
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watt (NC)
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—253

Ackerman
Aderholt
Akin
Andrews
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Mascara
McCarthy (NY)
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—22

Boehner
Burton
Cannon
Crane
Edwards
Hall (OH)
John
Kennedy (MN)
Lewis (GA)
McCrery
Millender-McDonald
Nethercutt
Ose
Pryce (OH)
Reyes
Riley
Roukema
Sherwood
Thomas
Traficant
Watson (CA)
Waxman

□ 1935

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in part A of House Report 107–450.

PART A AMENDMENT NO. 5 OFFERED BY MR. SPRATT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A Amendment No. 5 offered by Mr. SPRATT:

At the end of subtitle B of title II (page 45, after line 19), insert the following new section:

SEC. 217. TRANSFER OF FUNDS TO INCREASE AMOUNTS FOR PAC–3 MISSILE PROCUREMENT AND ISRAELI ARROW PROGRAM.

(a) INCREASE FOR PAC–3 PROCUREMENT.—The amount provided in section 101 for Missile Procurement, Army, is hereby increased by $65,000,000, to be available for an additional 24 PAC–3 missiles.

(b) INCREASE FOR ISRAELI ARROW PROGRAM.—The amount provided in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby increased by $70,000,000, to be available within program element 0603881C, Terminal Defense Segement, only for the Israeli Arrow Ballistic Missile System program.

(c) CORRESPONDING REDUCTION.—The amount provided in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby reduced by $135,000,000, to be derived from amounts for the Missile Defense Agency for program element 0603883C, Boost Defense Segment, of which—

(1) $54,393,000 shall be derived from project 4040, Space-Based Boost;

(2) $24,810,000 shall be derived from project 4043, Space-Based Laser; and

(3) $55,797,000 shall be derived from project 4020, Sea-Based Boost.

The CHAIRMAN. Pursuant to House Resolution 415, the gentleman from South Carolina (Mr. SPRATT) and a Member opposed each will control 10 minutes.

Mr. HUNTER. Mr. Chairman, I rise in opposition to the amendment, until it is amended.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. SPRATT).

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

The purpose of this amendment, Mr. Chairman, is to move $135 million within the ballistic missile defense account. Not outside it, not away from it, not to take a dime out of the top line, but to rearrange $135 million within the $7.8 billion account in the following manner:

First, we would move $65 million into production of 24 additional PAC–3 missiles. The PAC–3, the most advanced missile, the only missile defense system that we will really deploy for nearly the next 5 years, is woefully short in supply at the present time. We could very well need it in the near future. And so this would move $65 million into the PAC–3 line and allow 24 additional PAC–3s to be purchased.

There is an economic effect. By buying more, we buy more efficiently. We run the plant at a higher and more efficient rate; and as a consequence, these 24 missiles will cost nearly $1 million a copy less than they would otherwise cost if we were buying fewer.

Secondly, this amendment would move $70 million out of other accounts into manufacturing and development for the Arrow missile, which is being manufactured at a plant in Alabama, a Boeing plant in Alabama. Once again, this would provide us with a system which may be needed in the here and now, in the near future. This is a system that is ready to go but is not fully funded for production.

Now, where does this money come from? Under my amendment, we would take first of all funds out of space-based interceptors. Mr. Chairman, we have in the past, since the inauguration of SDI in 1983, we have developed at least two iterations of a space-based kinetic kill interceptor. The original

space-based interceptor was based on a satellite. A number of different interceptors would have been garaged on a single satellite and deployed from that satellite. Because such a satellite is a highly valuable and highly visible target in a fixed orbit circling the Earth at given times constantly, it becomes an easy target to take out. Because of its vulnerability, it was discontinued. Actually, it was defeated here on the House floor; discontinued the next year by SDI.

In its place, SDI proposed something called Brilliant Pebbles. The idea was to make these interceptors single autonomous satellites and so prolific they would be too prolific for any adversary to take out enough to make a difference. Well, Brilliant Pebbles II, after the expenditure of several hundred million dollars, was abandoned and discarded.

What I am proposing here tonight, Mr. Chairman, is that we have a full plate already for the Missile Defense Agency. We are trying to bring to fruition the mid-course interceptor. We are trying to develop a boost-phase intercept for the Navy. We are trying to develop a mid-course intercept system based upon a Navy ship. We have an airborne laser system. Given the full plate that the MDA, Missile Defense Agency, already has for the systems it has started up or is starting now, it does not need to complicate its problems with an additional space-based system, particularly after we have already abandoned two iterations of it.

Secondly, we would deplete the funding except for $10 million for further feasibility and concept definition studies of the space-based laser, a truly futuristic and, in my opinion, highly dubious system. We take the money out of those systems; and we put it in theater missile defense where the danger is clear, present, and imminent.

That is the purpose here, to rearrange money. Not to take money out of missile defense, but to rearrange it and to accomplish some near-term needs of systems that we very well may have to call upon in the near future.

The gentleman from California (Mr. HUNTER) has an amendment that would rearrange my rearrangement. He would leave in place the allocations I have made, but he would allow General Kadish to determine which systems would be debited in order for these two systems to be plussed up. And I can live with the gentleman's amendment.

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

Mr. HUNTER. Mr. Chairman, is it in order for me to offer the substitute at this time?

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in part A of House Report 107–450.

PART A AMENDMENT NO. 6 OFFERED BY MR. HUNTER AS A SUBSTITUTE FOR THE PART A AMENDMENT NO. 5 OFFERED BY MR. SPRATT

Mr. HUNTER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Part A amendment No. 6 offered by Mr. HUNTER as a substitute for part A amendment No. 5 offered by Mr. SPRATT:

At the end of subtitle C of title II (page 218, after line 15), insert the following new section:

SEC. ___. TRANSFER OF FUNDS TO INCREASE AMOUNTS FOR PAC–3 MISSILE PROCUREMENT AND ISRAELI ARROW PROGRAM.

(a) INCREASE FOR PAC–3 PROCUREMENT.—The amount provided in section 101 for Missile Procurement, Army, is hereby increased by $65,000,000, to be available for an additional 24 PAC–3 missiles.

(b) INCREASE FOR ISRAELI ARROW PROGRAM.—The amount provided in section 201(4) for the Missile Defense Agency is hereby increased by $70,000,000, to be available within program element 0603881C, Terminal Defense Segment, only for the Israeli Arrow Ballistic Missile Defense System program.

(c) CORRESPONDING REDUCTION.—The amount provided in section 201(4) for research, development, test, and evaluation, Defense-wide, is hereby reduced by $135,000,000, to be derived from amounts available to the Missile Defense Agency.

The CHAIRMAN. Pursuant to House Resolution 415, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

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

Mr. Chairman, the amendment offered by the gentleman from South Carolina (Mr. SPRATT) is very excellent with respect to the requirement or the proposal that we increase in two areas in missile defense, one of which is for additional PAC–3 missiles. Those in fact are the missiles, the antimissile system that we are deploying in the near term. We started deploying those around September of 2001. We are moving ahead to deploy that first battery. We are in what is known as low-rate initial production right now, finishing up EMD; and we are starting to move out with that program. And it is a great improvement over the Patriot missile that we utilized during Desert Storm. So it makes sense to try to get as many of those in the field as quickly as possible.

Similarly, we have been the prime mover in the Arrow missile program, which is also a theater antimissile system. It is an excellent system. It has been proven out and is in deployment right now, and we are trying to increase the deployment and get a third battery up for the Arrow missile. So both of those adds, I think, are good adds, Mr. Chairman.

What we do that is a little different in the substitute, the way we modify Mr. SPRATT's amendment, is instead of designating certain places where we mandate cuts in the missile defense program, we are not replacing General Kadish's discretion with our own. We are leaving him the discretion to move money around and decide where he is going to take the money from to come up with this additional $135 million-or-so for these two missile programs.

So if the gentleman will accept our substitute, I am inclined to accept his amendment.

Mr. SPRATT. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Chairman, I will indeed.

I do, however, Mr. Chairman, still wish to reserve my time so I can recognize others to make comments upon the amendment.

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

MOTION TO RISE OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion to rise offered by the gentleman from Mississippi (Mr. TAYLOR).

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

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 55, noes 336, answered ''present'' 1, not voting 42, as follows:

[Roll No. 146]

AYES—55

Abercrombie
Baldwin
Berry
Blumenauer
Bonior
Boyd
Brady (PA)
Capuano
Condit
Conyers
Costello
Davis (FL)
DeGette
Delahunt
Dingell
Doggett
Etheridge
Evans
Filner
Frank
Hill
Holt
Honda
Hooley
Jackson-Lee (TX)
Jefferson
Larson (CT)
Lee
Lynch
Markey
McDermott
McGovern
McIntyre
Meek (FL)
Miller, George
Mink
Napolitano
Oberstar
Obey
Olver
Pelosi
Rodriguez
Schakowsky
Shows
Slaughter
Solis
Stark
Stenholm
Tanner
Taylor (MS)
Thompson (CA)
Towns
Waters
Watt (NC)
Wu

NOES—336

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Blagojevich
Boehlert
Bonilla
Bono
Boozman
Borski
Boswell
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doolittle
Doyle
Dreier

Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Farr
Fattah
Ferguson
Flake
Fletcher
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Ney
Northup
Nussle
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

DeFazio

NOT VOTING—42

Ballenger
Berman
Blunt
Boehner
Boucher
Burton
Cannon
Clay
Combest
Cooksey
Crane
Dooley
Everett
Foley
Ganske
Gillmor
Gordon
Hall (OH)
Hinchey
John
Johnson, Sam
Kennedy (MN)
LaFalce
LaTourette
Lewis (GA)
McCrery
Millender-McDonald
Nethercutt
Norwood
Ose
Oxley
Pryce (OH)
Radanovich
Reyes
Riley
Roukema
Royce
Simpson
Thomas
Traficant
Watson (CA)
Waxman

□ 2011

Messrs. BACHUS, FERGUSON and LAHOOD changed their vote from ''aye'' to ''no.''

Mr. RODRIGUEZ changed his vote from ''no'' to ''aye.''

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The gentleman from California (Mr. HUNTER) has 13 minutes remaining. The gentleman from South Carolina (Mr. SPRATT) has 10½ minutes remaining.

Mr. HUNTER. Mr. Chairman, the gentleman from South Carolina and I have discussed his accepting of my substitute and our accepting of the amendment. I know he has several speakers. We do not have any more speakers. What I would be happy to do is yield my time on the substitute to the gentleman from South Carolina's speakers and maybe we could move this process along.

Mr. SPRATT. I thank the gentleman.

Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), the ranking member of our committee.

Mr. SKELTON. Mr. Chairman, I strongly support the amendment by my friend from South Carolina, and I compliment him as well as the gentleman from California.

This amendment addresses what I see as a relevance problem. I have looked at the future and found it wanting. There just is not enough money to carry out the current defense program through the next few years.

But instead of keeping its priorities on what the troops need, we see the Department of Defense canceling programs with real-world relevance while throwing money at any missile defense item that comes down the pike.

As a gesture of national unity, Democrats last year foreswore a significant debate on missile defense. We did not debate the 57 percent increase in spending. We have not debated Secretary Rumsfeld's removal of most of the controls and oversight required of all other major defense programs. We have not debated other significant changes.

But I hope, Mr. Chairman, that we can at least begin, with this amendment, to reestablish relevance as a consideration when spending the national treasury.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding to me and I rise in support of this bill.

Mr. Chairman, I believe I was the first Member of Congress in January 2001 to see the Arrow system deployed at Palmachim Air Force Base in Israel. It was very exciting to see the radar, the launchers, and also to see some members of the United States Navy working on the interoperable aspects of the system.

□ 2015

An important thing for this House to understand is that this system is interoperable. The cost-sharing between our country and Israel has produced a system that will protect Israel against current and future missile attacks, and these are real threats, but also will protect U.S. troops deployed in the field. The work we have done on this system and the costs we have shared with our democratic ally, Israel, will help us as we develop our own more advanced theater missile defense and national missile defense systems. This amendment transfers money in this defense authorization bill to support more advanced deployment of a system Israel needs now, and to support the continued development of missile defense systems for the United States. It is a win-win; a win for our ally, Israel; a win for our troops and our homeland.

At a time when our homeland is under serious threat, an issue I devote a lot of my time to, this amendment will assure that we are more capable against a missile threat.

Mr. Chairman, I urge our colleagues to support the amendment.

Mr. Chairman, I support this bill, which provides for a strong defense for our nation. This chamber and this Committee, of which I am a former member, have a long record of providing our armed forces with the capabilities needed to win wars overseas. The overwhelming success of the ongoing operations in Afghanistan demonstrates these capabilities, and attests to the skill and dedication of our armed forces.

We now face a new challenge. While our military forces will be called to win wars overseas, the nation must also wage a war at home. This is not a war we can win with artillery or uniformed troops. It is a war of intelligence, of technology, and of wills.

Similarly, the war against terrorism in Afghanistan was not won with the force structure and equipment of the Cold War. We relied on long-range platforms, on stealth, and on precision-guided munitions. Technology is replacing the need to put our uniformed personnel in harm's way and providing situational awareness to commanders thousands of miles away. While we will maintain the ability to go it alone, the ability to lead a coalition will frequently replace the need to shoulder the burden exclusively.

The bill before us today is a step in the right direction in transforming the military to a truly modern fighting force. The authorization of programs to protect the homeland shows an understanding of the threats we now face. The authorization of uninhabited vehicles, of stealthy aircraft, and improved communications and sensors embraces new technologies.

This bill moves down the path of defense reform. To be sure, there still is more to go. I urge my friends on the committee to continue

the fight against legacy systems and programs, to replace them with agile and smart systems, and to improve the poor tooth to tail ratio through better business practices in the defense establishment.

Finally, I am proud to represent the aerospace capital of the universe. The companies in my district forge the reconnaissance and communications satellites, UAVs, and other cutting edge technologies that will drive the new defense. I support these programs, and I support this bill.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. TURNER), in whose district the PAC III is built.

Mr. TURNER. Mr. Chairman, I thank the gentleman for yielding me this time.

I think it is important for us to understand what this amendment is really all about. It is the intent of the sponsors of these amendments to be sure that our troops are prepared to deal with what we may potentially face if we are involved in a land battle in a country like Iraq.

Today we have only 20 PAC III missiles in our inventory. We authorized 72 additional missiles last year. They are not on line yet. What that means is if we get into a battle, a land battle where our troops need the protection from those Scud missiles coming from Iraq, we will simply not have the protection our troops should have.

The PAC III missile is the only hit-to-kill missile that we have that has been proven to be successful. The old Patriot missiles are a different technology. We will certainly want as a House tonight to stand behind our troops and ensure that an additional 24 missiles are authorized under this bill.

The Army says they need over 2,000 PAC III missiles in their inventory. We will have to appropriate money for a decade to get that inventory to that level. But we can take a small step tonight by authorizing an additional 24 missiles for PAC III, as well as the authorization for additional funding for the Arrow missile, which is also a missile that will defend against the Scud missiles of Iraq.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from South Carolina (Mr. SPRATT) for yielding me this time.

Mr. Chairman, let me first of all state my support for this legislation as it relates to the funding of the military personnel in this country. I support the increased compensation that this authorization bill will provide.

Let me also thank the gentleman from South Carolina (Mr. SPRATT) for a very thoughtful amendment as it relates to dealing with the missile activities in the theater or grounded missile activity. I support that kind of utilization of missile defense, in the theater, on the ground.

I think it is important to note that I do oppose in its totality the utilization of $7 billion for missile defense in this particular bill. I think the thoughtful amendment that the gentleman from South Carolina (Mr. SPRATT) has that deals with the particular distribution of the funds, particularly as it relates to Israeli defense, is very helpful. However, let me share with my colleagues my concerns about missile defense.

First of all, Operation Enduring Freedom is costing roughly $1.8 billion per month. This bill funds missile defense at $7 billion, and we will also use $7 billion in 4 months for Operation Enduring Freedom. The money for Missile defense was put in this legislation even after a top defense official has said that a successful U.S. missile defense system which was completed recently does not realistically duplicate conditions of an actual attack, a fault in the missile defense. We also find that kinetic kill as a concept for destroying long-range ballistic missiles is even more problematic at this stage. There is no empirical evidence to support the contention that kinetic kill for ICBM defense will work.

So I simply say that the amendment before us, the Spratt amendment, with the distribution of funds as he is offering to do, is an amendment that makes sense, because it is related to ground missile defense. But I am opposed, Mr. Chairman, to the utilization of $7 billion for the missile defense program as offered in this bill and in the President's budget. I ask my colleagues to support the Spratt amendment.

Mr. SPRATT. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for accepting my amendment.

This Arrow missile was a program that we started in 1987. Members of the Committee on Armed Services contacted Mr. Rabin and Mr. Abramson and said you have to develop a system against incoming ballistic missiles because at some point we are going to see them coming from neighboring countries built presumably by Russia. We saw that. We are going to see more of it. This is a prudent move. The PAC III is also an excellent addition. I thank the gentleman for accepting this substitute.

Mr. Chairman, I move the substitute at this time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, Operation Enduring Freedom is costing roughly $1.8 billion per month. Within four months time that amount will climb to $7.2 billion, while funding the ballistic missile defense program in H.R. 4546 will cost approximately $7.784 billion.

The Ballistic Missile Defense system has failed most of its tests. Kinetic kill as a concept for destroying long-range ballistic missiles is even more problematic at this stage. There is no empirical evidence to support the contention that kinetic kill for ICBM defense will work.

The military personnel conducting the war in Afghanistan are showing measurable victories in achieving the United States goals. While the ballistic missile defense program is not a proven deterrent, let's not fund an unproven, instead let's fund success. By diverting the funds to military personnel we are insuring their welfare and the welfare of their families, which results in increased security for America.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HUNTER) as a substitute for the amendment offered by the gentleman from South Carolina (Mr. SPRATT).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. SPRATT), as amended.

The amendment, as amended, was agreed to.

MOTION TO RISE OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion to rise offered by the gentleman from Mississippi (Mr. TAYLOR).

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

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 56, noes 339, not voting 39, as follows:

[Roll No 147]

AYES—56

Abercrombie	Holt	Napolitano
Ackerman	Honda	Oberstar
Baldwin	Jackson-Lee (TX)	Obey
Berry	Jefferson	Olver
Blumenauer	Johnson, E. B.	Pelosi
Bonior	Kaptur	Peterson (MN)
Boyd	Kucinich	Rodriguez
Brady (PA)	Langevin	Sanchez
Capuano	Larson (CT)	Schakowsky
Condit	Lee	Shows
Conyers	Lynch	Solis
DeGette	Markey	Stenholm
Delahunt	McDermott	Tanner
Doggett	McGovern	Taylor (MS)
Filner	McIntyre	Tierney
Ford	Meeks (NY)	Towns
Frank	Miller, George	Waters
Hill	Mink	Watt (NC)
Hinchey		Wu

NOES—339

Aderholt	Berman	Callahan
Akin	Biggert	Calvert
Allen	Bilirakis	Camp
Andrews	Bishop	Cantor
Armey	Blagojevich	Capito
Baca	Blunt	Capps
Bachus	Boehlert	Cardin
Baird	Bonilla	Carson (IN)
Baker	Bono	Carson (OK)
Baldacci	Boozman	Castle
Barcia	Borski	Chabot
Barrett	Boswell	Chambliss
Bartlett	Brady (TX)	Clement
Barton	Brown (FL)	Clyburn
Bass	Brown (OH)	Coble
Becerra	Brown (SC)	Collins
Bentsen	Bryant	Cooksey
Bereuter	Burr	Costello
Berkley	Buyer	Cox

Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Larsen (WA)
Latham
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Ney
Northup
Nussle
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—39

Ballenger
Barr
Boehner
Boucher
Burton
Cannon
Clay
Clayton
Combest
Crane
DeFazio
Edwards
Everett
Gillmor
Gordon
Grucci
Hall (OH)
Hansen
Hoyer
John
Kennedy (MN)
LaFalce
LaTourette
Lewis (GA)
Millender-McDonald
Nethercutt
Norwood
Ose
Oxley
Pryce (OH)
Reyes
Riley
Roukema
Simpson
Stark
Traficant
Watson (CA)
Watts (OK)
Waxman

□ 2043

Mr. TIBERI changed his vote from ''aye'' to ''no.''

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in part A of House Report 107–450.

PART A AMENDMENT NO. 7 OFFERED BY MS. SANCHEZ

Ms. SANCHEZ. Mr. Chairman, I offer amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A Amendment No. 7 offered by Ms. SANCHEZ:

At the end of title VII (page 159, after line 14) insert the following:

SEC. 7 . LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.

Section 1093(b) of title 10, United States Code, is amended by inserting ''in the United States'' after ''Defense''.

The CHAIRMAN. Pursuant to House Resolution 415, the gentlewoman from California (Ms. SANCHEZ) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Ms. SANCHEZ).

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

Mr. Chairman, today I offer an amendment about freedom, safety, and choice. Members of the Armed Forces are entitled to a quality of life equal to that of the Nation they are pledged to defend.

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6704. A letter from the Secretary, Department of Agriculture, transmitting a draft bill, ''To prescribe, adjust, and collect fees to cover the costs incurred by the Secretary to produce national and international reagents and references and make them available to the industry on a fee basis''; to the Committee on Agriculture.

6705. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Lysophosphatidyl- ethanolamine (LPE); Exemption from the Requirement of a Tolerance [OPP–301212; FRL–6821–4] (RIN: 2070–AB78) received April 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6706. A letter from the Deputy Secretary, Department of Defense, transmitting the Department's report describing the policies and procedures for decision-making on issues arising under the Civil False Claims Act, sections 3729 through 3733, of Title 31, United States Code; to the Committee on Armed Services.

6707. A letter from the Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Amendments to HUD's Civil Money Penalty Regulations [Docket No. FR–4399–F–02] (RIN: 2501–AC56) received May 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6708. A letter from the Assistant Secretary, Department of Education, transmitting notice of Final Priority—Program of Research on Reading Comprehension, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

6709. A letter from the Secretary, Department of Education, transmitting the Annual Report of the National Advisory Committee on Institutional Quality and Integrity for Fiscal Year 2001, pursuant to 20 U.S.C. 1145(e); to the Committee on Education and the Workforce.

6710. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Significant New Uses of Certain Chemical Substances [OPPTS–50606A; FRL–6805–1] (RIN: 2070–AB27) received April 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6711. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule—Revisions to the California State Implementation Plan, Lake County Air Quality Management District [CA 250–0331a; FRL–7165–4] received April 9, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6712. A letter from the Principal Deputy Associate Administator, Environmental Protection Agency, transmitting the Agency's final rule—Interim Final Determination that State has Corrected the Rule Deficiencies and Stay of Sanctions in California, San Joaquin Valley Unified Air Pollution Control District [CA 262–0338c; FRL–7174–2] received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6713. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

6714. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting additional legislative proposals for inclusion in the Foreign Relations Authorization Act Fiscal Years 2002 and 2003; to the Committee on International Relations.

6715. A communication from the President of the United States, transmitting the Second Annual Report on the Inter-American Convention Against Corruption; to the Committee on International Relations.

6716. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–357, ''Election Recount and Judicial Review Amendment Act of 2002'' received May 9, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6717. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–358, ''Youth Pollworker Temporary Amendment Act of 2002'' received May 9, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6718. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–361, ''District of Columbia Public Schools Free Textbook Amendment Act of 2002'' received May 9, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6719. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–355, ''Office of Employee Appeals Attorney Fees Clarification Amendment Act of 2002'' received May 9, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6720. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–356, ''Residential Permit Parking Area Amendment Act of 2002'' received May 9, 2002, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

6721. A letter from the Deputy Secretary, Department of Housing and Urban Development, transmitting the Department's FY 2003 Annual Performance Plan; to the Committee on Government Reform.

6722. A letter from the Personnel Management Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6723. A letter from the Personnel Management Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6724. A letter from the Comptroller General, General Accounting Office, transmitting the Month in Review: December 2001 Reports, Testimony, Correspondence, and Other Publications; to the Committee on Government Reform.

6725. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Decommissioning Activities (RIN: 1010–AC65) received May 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6726. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska [Docket No. 011218304–1304–01; I.D. 030702D] received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6727. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2002 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska [Docket No. 011218304–1304–01; I.D.121701A] (RIN: 0648–AP69) received May 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6728. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program for Groundfish of the Bering Sea and Aleutian Islands Area [Docket No. 010914227–2063–02; I.D. 080201E] (RIN: 0648–AM40) received May 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

6729. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Various Transport Category Airplanes Equipped with Air Traffic Control (ATC) Transponders Manufactured by Rockwell Collins, Inc. [Docket No. 2000–NM–284–AD; Amendment 39–12682; AD 2002–06–05] (RIN: 2120–AA64) received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6730. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rockwell Collins, Inc. TDR–94 and TDR–94D Mode S Transponders [Docket No. 2000–CE–32–AD; Amendment 39–12683; AD 2002–06–06] (RIN: 2120–AA64) received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6731. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2002–NM–32–AD; Amendment 39–12678; AD 2002–06–02] (RIN: 2120–AA64) received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6732. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F Series Airplanes; and Model MD–10–10F and MD–10–30F Series Airplanes [Docket No. 2001–NM–121–AD; Amendment 39–12692; AD 2002–06–14] (RIN: 2120–AA64) received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6733. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes [Docket No. 2000–NM–195–AD; Amendment 39–12689; AD 2002–06–11] (RIN: 2120–AA64) received April 16, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6734. A letter from the Chairman, National Transportation Safety Board, transmitting a legislative proposal entitled, ''National Transportation Safety Board Amendments Act of 2002''; to the Committee on Transportation and Infrastructure.

6735. A letter from the Secretary, Department of the Treasury, transmitting a draft bill designed to restore the HI Trust Fund to its correct financial position; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HANSEN: Committee on Resources. H.R. 1462. A bill to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land; with an amendment (Rept. 107–451 Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII, the following action was taken by the Speaker:

H.R. 1462. Referral to the Committee on Agriculture extended for a period ending not later than June 10, 2002.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BOEHLERT (for himself, Mr. WEINER, Mr. SHAYS, Mr. GRUCCI, Mr. LARSON of Connecticut, Mr. ISRAEL, Mrs. MORELLA, Mr. ETHERIDGE, Mr. EHLERS, Mr. BACA, Mr. FORBES, and Mr. BARCIA):

H.R. 4687. A bill to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life; to the Committee on Science.

By Mr. HAYWORTH:

H.R. 4688. A bill to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; to the Committee on Resources.

By Mr. SMITH of Texas (for himself, Mr. SENSENBRENNER, Mr. HYDE, Mr. GEKAS, Mr. COBLE, Mr. GALLEGLY, Mr. GOODLATTE, Mr. BRYANT, Mr. CHABOT, Mr. BARR of Georgia, Mr. JENKINS, Mr. CANNON, Mr. GRAHAM, Mr. BACHUS, Mr. HOSTETTLER, Mr. GREEN of Wisconsin, Mr. KELLER, Mr. ISSA, Ms. HART, Mr. FLAKE, and Mr. PENCE):

H.R. 4689. A bill to disapprove certain sentencing guideline amendments; to the Committee on the Judiciary.

By Mr. BERRY:

H.R. 4690. A bill to require that pseudoephedrine be dispensed only upon a written prescription of a licensed practitioner, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS (for himself, Mr. ARMEY, Mr. TAUZIN, Mr. STUPAK, Mr. SMITH of New Jersey, Mr. BARCIA, Mr. TAYLOR of Mississippi, Mr. BARTON of Texas, Mr. UPTON, Mr. STEARNS, Mr. DEAL of Georgia, Mr. BURR of North Carolina, Mr. WHITFIELD, Mr. NORWOOD, Mrs. CUBIN, Mr. PICKERING, Mr. BRYANT, Mr. PITTS, Mr. WICKER, Mr. MICA, Mr. WELDON of Florida, Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. COOKSEY, and Mr. JEFF MILLER of Florida):

H.R. 4691. A bill to prohibit certain abortion-related discrimination in governmental activities; to the Committee on Energy and Commerce.

By Mr. BISHOP:

H.R. 4692. A bill to amend the Act entitled ''An Act to authorize the Establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes'', to provide for the addition of certain donated lands to the Andersonville National Historic Site; to the Committee on Resources.

By Mr. BLUNT (for himself, Mr. ACKERMAN, Mr. GILMAN, and Mr. MENENDEZ):

H.R. 4693. A bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes; to the Committee on International Relations.

By Mr. BURTON of Indiana (for himself and Mr. TOM DAVIS of Virginia):

H.R. 4694. A bill to provide for flexibility in making emergency Federal procurements, and for other purposes; to the Committee on Government Reform.

By Mr. CALLAHAN:

H.R. 4695. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating Fort Gaines and Fort Morgan in Alabama as units of the National Park System, and for other purposes; to the Committee on Resources.

By Mr. CANNON (for himself, Mr. MORAN of Virginia, Mr. ARMEY, Mr. BONILLA, Mr. HOSTETTLER, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. CAMP, and Mr. DOOLEY of California):

H.R. 4696. A bill to amend title 11 of the United States Code with respect to the allowance of certain claims or interests; to the Committee on the Judiciary.

By Ms. DEGETTE (for herself and Mr. GREENWOOD):

H.R. 4697. A bill to amend the Public Health Service Act with respect to the protection of human subjects in research; to the Committee on Energy and Commerce.

By Mr. ENGEL:

H.R. 4698. A bill to require licenses for the sale, purchase, and distribution of certain chemicals that are precursors to chemical weapons, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FOSSELLA:

H.R. 4699. A bill to establish appropriate procedures and sanctions to ensure that unpaid parking fines and penalties owed to New York City by foreign countries are paid; to the Committee on International Relations.

By Ms. PRYCE of Ohio (for herself, Mr. THOMAS, Mr. BOEHNER, Mr. TAUZIN, Mr. OXLEY, Mr. COMBEST, Mr. HERGER, Mr. MCKEON, Mr. UPTON, Mr. BILIRAKIS, Mrs. ROUKEMA, Mr. GOODLATTE, and Mr. SHAW):

H.R. 4700. A bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Education and the Workforce, Agriculture, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GORDON (for himself, Mr. OSBORNE, Mr. DINGELL, Mr. TOWNS, Mr. STEARNS, Mr. JOHN, and Mr. CLEMENT):

H.R. 4701. A bill to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Energy and Commerce.

By Mr. SAM JOHNSON of Texas (for himself, Mr. NORWOOD, Mr. CRANE, Ms. DUNN, and Mr. HERGER):

H.R. 4702. A bill to amend title XVIII of the Social Security Act to clarify the right of Medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the Medicare program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEVIN (for himself and Mr. CAMP):

H.R. 4703. A bill to establish a joint United States-Canada customs inspection pilot project; to the Committee on Ways and Means.

By Mrs. LOWEY (for herself, Mrs. JONES of Ohio, Ms. MCKINNEY, Mr. KILDEE, Mr. FRANK, Mr. KUCINICH, Mrs. MINK of Hawaii, Ms. RIVERS, Mr. OWENS, Mr. RANGEL, Mr. NADLER, Ms. LEE, Ms. VELAZQUEZ, Mrs. MORELLA, and Mr. ISRAEL):

H.R. 4704. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 4705. A bill to amend the Interstate Horseracing Act of 1978 to require the consent of certain horsemen's groups for interstate off-track wagers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RAMSTAD (for himself, Mr. POMEROY, Mrs. JOHNSON of Connecticut, Mr. LEWIS of Kentucky, Mr. MANZULLO, and Ms. VELAZQUEZ):

H.R. 4706. A bill to amend the Internal Revenue Code of 1986 to modify the unrelated business income limitation on investment in certain debt-financed properties; to the Committee on Ways and Means.

By Ms. SCHAKOWSKY (for herself, Mr. BONIOR, Mr. WAXMAN, Ms. CARSON of Indiana, Mr. KUCINICH, Mr. QUINN, Ms. BROWN of Florida, Mr. SANDERS, Mr. MCGOVERN, Mr. UDALL of Colorado, Mr. NADLER, Ms. DELAURO, Mr. GEORGE MILLER of California, Ms. LEE, Mr. WEXLER, Mrs. DAVIS of California, Mr. CUMMINGS, Ms. MCKINNEY, Mr. HALL of Ohio, Mr. BRADY of Pennsylvania, Ms. NORTON, Ms. SOLIS, Mr. LIPINSKI, Mr. DAVIS of Illinois, Ms. MCCARTHY of Missouri, and Ms. SLAUGHTER):

H.R. 4707. A bill to prohibit the use of arsenic-treated lumber to manufacture playground equipment, children's products, fences, walkways, and decks, and for all other residential purposes, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIMPSON (for himself and Mr. OTTER):

H.R. 4708. A bill to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District; to the Committee on Resources.

By Ms. SLAUGHTER:

H.R. 4709. A bill to amend the Public Health Services Act to authorize the Director of the National Institute of Environmental Health Sciences to conduct and coordinate a research program on hormone disruption; to the Committee on Energy and Commerce, and in addition to the Committees on Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELAZQUEZ:

H.R. 4710. A bill to amend title 44, United States Code, to reduce paperwork burdens for small-business concerns; to the Committee on Government Reform, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WATERS (for herself and Mr. BACHUS):

H.R. 4711. A bill to provide for the identification of assets hidden in United States financial institutions that have been stolen or misappropriated from foreign countries by corrupt foreign political figures of those countries; to the Committee on Financial Services.

By Mr. WATKINS:

H.R. 4712. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from the recapture provisions of the low-income housing credit for certain recipients of Federal multi-family housing loans; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. MICA, Mr. OBERSTAR, Mr. LIPINSKI, and Mr. EHLERS):

H. Con. Res. 401. Concurrent resolution recognizing the heroism and courage displayed by airline flight attendants each day; to the Committee on Transportation and Infrastructure.

By Mr. PAUL (for himself, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. CANNON, Mr. COLLINS, Mr. DUNCAN, Mr. FLAKE, Mr. GOODE, Mr. MANZULLO, Mr. NORWOOD, Mr. ROHRABACHER, Mr. SCHAFFER, Mr. SESSIONS, and Mr. WELDON of Florida):

H. Res. 416. A resolution expressing the sense of the Congress regarding the International Criminal Court; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. ACEVEDO-VILA introduced a bill (H.R. 4713) for the relief of Laura Maldonado Caetani; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. RAHALL.

H.R. 82: Mr. MASCARA.

H.R. 285: Ms. WATSON.

H.R. 294: Mrs. MYRICK.

H.R. 303: Mr. DOGGETT.

H.R. 339: Mr. OWENS.

H.R. 482: Mr. AKIN and Mr. LEWIS of Kentucky.

H.R. 488: Mr. THOMPSON of California.

H.R. 521: Mr. ACEVEDO-VILA.

H.R. 551: Mr. UPTON.

H.R. 638: Mr. OWENS.

H.R. 854: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LANTOS, Ms. MILLENDER-MCDONALD, Mr. MARKEY, and Mr. MCGOVERN.

H.R. 882: Mr. HAYES, Mrs. JONES of Ohio, Mr. BOEHNER, Mr. BISHOP, Mr. WELLER, Mr.

LEWIS of Georgia, Mr. CHAMBLISS, and Mr. DEAL of Georgia.

H.R. 898: Ms. ROS-LEHTINEN.

H.R. 948: Mr. SMITH of New Jersey.

H.R. 951: Mr. ISSA, Mr. REYES, Mr. JENKINS, Mrs. MEEK of Florida, Mr. SULLIVAN, and Mr. LATOURETTE.

H.R. 1090: Mr. HILLEARY and Mr. OLVER.

H.R. 1092: Mr. PENCE, Mr. DAVIS of Illinois, and Mr. LAHOOD.

H.R. 1144: Mr. TOWNS.

H.R. 1145: Mr. GEKAS.

H.R. 1214: Mr. MCCOLLUM.

H.R. 1233: Mr. FOLEY.

H.R. 1296: Mr. TAUZIN.

H.R. 1305: Mr. WATT of North Carolina.

H.R. 1375: Mr. BRYANT.

H.R. 1460: Mr. CANTOR.

H.R. 1472: Ms. PELOSI.

H.R. 1487: Ms. HOOLEY of Oregon.

H.R. 1507: Mr. PASTOR.

H.R. 1543: Mr. PENCE and Mr. DUNCAN.

H.R. 1577: Mr. WATT of North Carolina, Ms. JACKSON-LEE of Texas, Mr. GEKAS, Mr. ISAKSON, and Mr. OSBORNE.

H.R. 1581: Mrs. CUBIN.

H.R. 1598: Ms. MCCARTHY of Missouri, Mr. BROWN of Ohio, and Mr. CRENSHAW.

H.R. 1609: Mr. COBLE, Mr. LOBIONDO, and Mr. BOOZMAN.

H.R. 1629: Mr. HOEFFEL.

H.R. 1637: Mr. MCNULTY.

H.R. 1764: Mr. PETERSON of Minnesota.

H.R. 1784: Mr. SHERMAN.

H.R. 1809: Mr. BISHOP and Ms. NORTON.

H.R. 1897: Mr. LYNCH.

H.R. 1919: Mr. KENNEDY of Minnesota.

H.R. 1935: Mr. HOEFFEL, Mr. ENGEL, Ms. HOOLEY of Oregon, Mr. FATTAH, Mr. KANJORSKI, Mr. THUNE, and Mr. SULLIVAN.

H.R. 1966: Mr. GOODE and Mr. VITTER.

H.R. 2014: Mr. MORAN of Virginia and Mr. CALVERT.

H.R. 2117: Mr. DEAL of Georgia.

H.R. 2348: Mr. BALDACCI and Ms. VELAZQUEZ.

H.R. 2419: Mr. BISHOP.

H.R. 2466: Mrs. JO ANN DAVIS of Virginia.

H.R. 2483: Mr. LARSEN of Washington.

H.R. 2527: Mr. GRAHAM, Mr. HOBSON, Mr. ROGERS of Michigan, Mr. RAHALL, Mr. PUTNAM, Mr. NEAL of Massachusetts, and Mr. BARR of Georgia.

H.R. 2695: Mr. BARTLETT of Maryland.

H.R. 2714: Mr. HOBSON, Mr. SHUSTER, Mrs. WILSON of New Mexico, Mr. COMBEST, Mr. HUNTER, Mr. KIRK, Mr. POMBO, Mr. ROYCE, Mr. SULLIVAN, Mr. LATHAM, Mr. LEWIS of Kentucky, Mr. MCKEON, Mr. GARY G. MILLER of California, Mr. PETERSON of Pennsylvania, Mr. ROGERS of Michigan, Mr. SCHROCK, Mr. SIMMONS, Mr. SIMPSON, Mr. YOUNG of Alaska, Mr. MORAN of Kansas, Ms. PRYCE of Ohio, and Mr. RAMSTAD.

H.R. 2733: Mr. GORDON.

H.R. 2763: Mr. RYUN of Kansas and Mr. LAHOOD.

H.R. 2820: Mr. GEPHARDT, Mr. GEKAS, and Mr. CUMMINGS.

H.R. 2874: Mr. KILDEE, Ms. RIVERS, Mrs. JONES of Ohio, and Mr. STENHOLM.

H.R. 2953: Mr. QUINN, Mr. GILMAN, and Mr. REYNOLDS.

H.R. 3131: Mr. TAUZIN, Ms. VELAZQUEZ, Mr. DOYLE, Mr. GIBBONS, and Ms. PELOSI.

H.R. 3238: Mr. CROWLEY, Mr. DICKS, Mr. NEAL of Massachusetts, and Mr. GEKAS.

H.R. 3250: Mr. KENNEDY of Minnesota, Mr. SOUDER, Mr. HASTINGS of Florida, and Ms. HART.

H.R. 3253: Mr. UDALL of New Mexico, Ms. BERKLEY, Mr. SHOWS, Mr. SIMPSON, and Mr. JEFF MILLER of Florida.

H.R. 3267: Mr. BACA.

H.R. 3320: Ms. HART and Mr. BUYER.

H.R. 3321: Mr. PASTOR.

H.R. 3360: Mrs. ROUKEMA.

H.R. 3422: Mr. EVANS.

H.R. 3450: Ms. MCCOLLUM, Mr. PLATTS, Mr. BARR of Georgia, and Ms. LOFGREN.

H.R. 3469: Mr. BROWN of Ohio, Mr. OLVER, Mr. FILNER, Ms. WATERS, Mr. MCNULTY, Mr. PAYNE, Mr. CONYERS, Ms. WATSON, Mr. GEORGE MILLER of California, Mr. GUTIERREZ, Mr. LARSEN of Washington, and Mr. CLAY.

H.R. 3479: Mr. PETRI, Ms. HART, and Mr. BAKER.

H.R. 3597: Mr. HUNTER.

H.R. 3609: Mr. BRYANT.

H.R. 3612: Ms. SLAUGHTER.

H.R. 3618: Mr. CONDIT.

H.R. 3625: Mr. GREEN of Texas and Mr. KUCINICH.

H.R. 3626: Mr. GONZALEZ.

H.R. 3661: Mr. TERRY and Mr. BOEHLERT.

H.R. 3673: Mr. FOLEY.

H.R. 3710: Mr. MCGOVERN and Mr. LEWIS of Georgia.

H.R. 3729: Mr. BOYD.

H.R. 3747: Mr. STARK.

H.R. 3805: Mr. LEWIS of Kentucky and Mr. BACHUS.

H.R. 3814: Mr. LEACH and Mr. RANGEL.

H.R. 3834: Mr. NORWOOD.

H.R. 3845: Mr. UDALL of Colorado.

H.R. 3884: Mr. RANGEL.

H.R. 3915: Mr. MCGOVERN.

H.R. 3940: Mr. ABERCROMBIE and Mr. CONDIT.

H.R. 3961: Mr. PAYNE, Mr. HOLT, Ms. BALDWIN, Mr. HALL of Ohio, Mr. BRADY of Pennsylvania, Ms. JACKSON-LEE of Texas, Mr. STARK, and Mr. OWENS.

H.R. 3966: Mr. SMITH of New Jersey.

H.R. 3967: Mr. SMITH of New Jersey.

H.R. 3973: Mr. COOKSEY, Mr. HILLEARY, Mr. BALLENGER, Mr. ABERCROMBIE, Mr. TANNER, Mrs. TAUSCHER, Mrs. THURMAN, Mr. HUNTER, Mr. WELDON of Pennsylvania, Mr. ANDREWS, Mr. HASTINGS of Florida, Mr. BARTLETT of Maryland, Mr. HANSEN, Mr. BISHOP, Mr. SCHROCK, Mr. HAYES, Mr. BROWN of South Carolina, Mr. CANTOR, Mr. FORBES, Mr. HEFLEY, Mrs. CUBIN, Mr. PITTS, Mr. KELLER, Mr. CONYERS, Mr. HORN, Mr. COBLE, Mrs. JO ANN DAVIS of Virginia, Mrs. WILSON of New Mexico, Mr. RYAN of Wisconsin, Mr. WELDON of Florida, Mr. THORNBERRY, Mr. HOEKSTRA, Mr. SHADEGG, Mr. RAMSTAD, Mr. GILCHREST, Mr. MCKEON, and Mr. SNYDER.

H.R. 3995: Mr. HOEFFEL.

H.R. 4003: Mr. FILNER.

H.R. 4011: Mr. SANDERS and Ms. SLAUGHTER.

H.R. 4013: Mr. ISAKSON.

H.R. 4014: Mr. ISAKSON.

H.R. 4017: Ms. SCHAKOWSKY, Mr. RANGEL, Mr. FARR of California, and Mr. WYNN.

H.R. 4018: Mr. TERRY, Mr. GORDON, Mr. NEAL of Massachusetts, and Mr. ISRAEL.

H.R. 4034: Mr. KENNEDY of Rhode Island.

H.R. 4037: Mr. FRANK.

H.R. 4059: Mr. FORD.

H.R. 4066: Mr. SKELTON, Mr. GONZALEZ, and Ms. BALDWIN.

H.R. 4071: Mr. WICKER.

H.R. 4073: Mr. CAMP, Mr. WILSON of South Carolina, Ms. DUNN, Mr. BISHOP, Mr. TOM DAVIS of Virginia, Mr. SHAYS, Mr. SHAW, Mr. SCHAFFER, Mr. JEFFERSON, Ms. SLAUGHTER, Mr. BENTSEN, Mr. OBERSTAR, Mr. UDALL of Colorado, Mr. MCDERMOTT, Mr. THOMPSON of Mississippi, Mr. DICKS, Mr. KILDEE, Mr. LUTHER, Mr. PRICE of North Carolina, Mr. RODRIGUEZ, Ms. CARSON of Indiana, Mr. PASTOR, Mr. RANGEL, Mrs. MINK of Hawaii, Mr. FILNER, Mr. BROWN of Ohio, and Mr. FALEOMAVAEGA.

H.R. 4078: Ms. MCCOLLUM.

H.R. 4084: Mr. CONYERS and Mr. SANDERS.

H.R. 4085: Mr. GUTIERREZ, Mr. FOLEY, Mrs. CAPPS, Mr. UDALL of New Mexico, Mr. STUMP, Ms. BERKLEY, and Mr. BILIRAKIS.

H.R. 4092: Ms. HART.

H.R. 4112: Mr. STUPAK.

H.R. 4152: Mr. GEKAS.

H.R. 4210: Mrs. MORELLA, Mr. OLVER, Mr. BROWN of Ohio, Ms. WATSON, Mr. MCGOVERN, Mr. KUCINICH, Mr. FRANK, Mr. GEORGE MILLER of California, Mr. POMEROY, and Mr. BONIOR.

H.R. 4446: Mr. TERRY, Mrs. CHRISTENSEN, Mr. DAVIS of Illinois, Mr. BOEHLERT, and Mr. GUTKNECHT.

H.R. 4493: Mr. TERRY.

H.R. 4496: Mr. TERRY.

H.R. 4498: Mr. TERRY.

H.R. 4503: Mr. OWENS.

H.R. 4514: Mr. BILIRAKIS, Mr. SIMPSON, Mr. SHOWS, Ms. BERKLEY, and Mr. BOOZMAN.

H.R. 4515: Mr. OSBORNE.

H.R. 4551: Mr. FILNER, Mr. BRADY of Texas, Mr. CUMMINGS, Mr. HINOJOSA, Mr. EDWARDS, Ms. JACKSON-LEE of Texas, Mr. LAMPSON, and Mr. QUINN.

H.R. 4555: Mr. FROST and Mr. GREEN of Texas.

H.R. 4575: Mr. OWENS, Mr. RODRIGUEZ, Mr. GONZALEZ, Mr. MCGOVERN, and Mr. HINOJOSA.

H.R. 4582: Mr. OTTER.

H.R. 4592: Ms. LEE, Mr. HONDA, Mr. GARY G. MILLER of California, Mr. FARR of California, Mr. SHERMAN, and Mrs. DAVIS of California.

H.R. 4608: Mr. HOUGHTON, Mr. BEREUTER, Mr. SCHAFFER, Mr. CANTOR, Mrs. WILSON of New Mexico, Mr. LUCAS of Oklahoma, Mr. OSBORNE, Mr. MANZULLO, Mr. GILMAN, Mr. WATKINS, Mr. POMBO, Mr. COX, Mr. GIBBONS, Mr. YOUNG of Alaska, Mr. BLUNT, Mr. NUSSLE, Mr. GOODLATTE, Mr. BOOZMAN, Mr. WICKER, Mr. CHAMBLISS, Mr. COOKSEY, Mr. FOSSELLA, Mr. KING, Mr. HUNTER, Mr. BRADY of Texas, Ms. GRANGER, Mr. BAKER, Mr. BONILLA, Mr. PAUL, Mr. ARMEY, Mr. GRAVES, Mr. PUTNAM, Mr. SMITH of Michigan, Mrs. EMERSON, Mr. SHIMKUS, Mr. BURR of North Carolina, Mr. DEMINT, Mr. HULSHOF, Mr. BILIRAKIS, Mr. SIMPSON, Mr. SMITH of New Jersey, Mr. ENGLISH, Mr. WALDEN of Oregon, Mr. SESSIONS, Mr. HOEKSTRA, Mr. THUNE, Mr. ROGERS of Michigan, Mr. HYDE, Mr. JENKINS, Mr. HASTERT, Mr. CALLAHAN, Mrs. KELLY, Mr. SUNUNU, Mr. PICKERING, Mr. PORTMAN, Mr. BARTON of Texas, Mr. HASTINGS of Washington, Mr. THOMAS, Mr. TAUZIN, Mr. THORNBERRY, Mr. STUMP, Mr. HERGER, Mr. MCKEON, Mr. HAYES, Mr. GILCHREST, Mr. EHLERS, Mr. WATTS of Oklahoma, and Mr. SHADEGG.

H.R. 4614: Mr. CONYERS, Mr. MCGOVERN, Mr. WYNN, Mrs. NAPOLITANO, Mr. HILLIARD, Ms. BROWN of Florida, Mr. OLVER, Mr. BALDACCI, and Ms. RIVERS.

H.R. 4620: Mr. SKEEN and Mr. MCINNIS.

H.R. 4630: Mr. PASCRELL.

H.R. 4635: Mr. MASCARA and Mr. KINGSTON.

H.R. 4647: Mr. BAKER and Mr. ROHRABACHER.

H.R. 4654: Mr. PAYNE, Mr. MCNULTY, Mr. ISRAEL, Mr. GRUCCI, Mrs. MALONEY of New York, Ms. VELAZQUEZ, Mr. STUPAK, Mr. HOEFFEL, Mr. MYRTHA, Mr. BRADY of Pennsylvania, Mr. DINGELL, and Mrs. TAUSCHER.

H.R. 4658: Mr. TANCREDO, Mr. HOSTETTLER, Mr. TERRY, Mr. TIAHRT, Mr. BARTLETT of Maryland, Mr. PITTS, and Mrs. MYRICK.

H.R. 4667: Mr. HUNTER.

H.R. 4669: Mr. HASTINGS of Florida, Ms. WOOLSEY, and Ms. MILLENDER-MCDONALD.

H.R. 4670: Mr. PASTOR.

H.R. 4671: Mrs. MINK of Hawaii, Ms. SOLIS, Mr. CUMMINGS, Ms. JACKSON-LEE of Texas, Mr. DEFAZIO, Mr. COYNE, Mr. HALL of Ohio, Mr. JEFFERSON, Mr. BLAGOJEVICH, Mr. FROST, Mr. EVANS, Mr. CONYERS, Mr. SCOTT, Mr. MCGOVERN, Mr. SCHIFF, Mr. THOMPSON of Mississippi, Ms. CARSON of Indiana, and Mrs. MALONEY of New York.

H.J. Res. 40: Mr. SPRATT.

H.J. Res. 86: Mr. OSE.

H. Con. Res. 42: Mr. DINGELL.

H. Con. Res. 315: Mr. AKIN.

H. Con. Res. 346: Mr. OWENS.

H. Con. Res. 355: Mr. SHAYS, Mr. WEXLER, Mr. LEVIN, Mr. WEINER, and Ms. BERKLEY.

H. Con. Res. 385: Mr. LYNCH, Mr. HINCHEY, Mr. OWENS, Ms. SLAUGHTER, and Mr. WYNN.

H. Con. Res. 394: Mr. FLAKE.

H. Con. Res. 398: Mr. GONZALEZ.

H. Res. 98: Mrs. MALONEY of New York.

H. Res. 115: Mr. TURNER and Mr. KENNEDY of Rhode Island.

H. Res. 269: Mr. ROHRABACHER, Mr. PASCRELL, Mr. MASCARA, Mr. TIBERI, Mr. MARKEY, Mr. PALLONE, and Mr. CAPUANO.

H. Res. 393: Mrs. CAPPS, Mr. GILMAN, and Mr. CARDIN.

H. Res. 410: Mr. PAYNE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 448: Mr. FILNER.
H.R. 975: Mr. BACHUS.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, THURSDAY, MAY 9, 2002 No. 58

Senate

The Senate met at 10 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

PRAYER

The guest Chaplain, Commissioner John Busby, of the Salvation Army, offered the following prayer:

Almighty God, we thank You for being the refuge and strength of our Nation during these last painful months. We praise You for the comfort You have given during our time of deepest need.

Faithful God, we ask Your blessing upon our Senators. Give them wisdom and compassion as they lead our country. Give them wisdom to see the deep physical and spiritual needs of many Americans. Give them courage to affirm that faith in You gives meaning to human life and that service to humanity is the best work we can do.

We humbly ask You to help the Members of the Senate make this great Nation greater. May we all realize that the prosperity we enjoy in the United States of America has come only by Your grace. Make us worthy stewards of that grace. Help us all to put into action Your greatest commandment to love God with all our heart, mind, strength and our neighbor as ourselves.

This we pray in the name of Jesus who set for us the example of service above self. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODMAN CLINTON 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 9, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will be in a period of morning business until 10:30 a.m., with the time under the control of Senator STABENOW or her designee.

At 10:30 a.m. the Senate will proceed to executive session to consider four judicial nominations. At approximately 11:30 a.m. the Senate will proceed to vote on these nominations.

Following disposition of these nominations, the Senate will resume consideration of the trade bill.

MARY ANNE MOORE CLARKSON GIVES BIRTH

Mr. REID. Madam President, for all of us who work here on a daily basis, we congratulate Mary Anne Moore Clarkson who, last night had a baby weighing more than 10 pounds. Mary Anne is here every day. We are excited for her and her husband. Some of us know she is Senator BYRD's granddaughter. We are excited for him and the entire family.

MEASURE PLACED ON THE CALENDAR—S. 2485

Mr. REID. Madam President, I understand S. 2485 is at the desk and is due for a second reading.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. REID. I ask that the bill be read for a second time, and I will then object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2485) entitled the ''Andean Trade Promotion and Drug Eradication Act.''

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

Mr. REID. When the Chair turns to a period for morning business, I ask unanimous consent the Senator from West Virginia, Mr. ROCKEFELLER, be recognized for up to 7 minutes. That will be out of Senator STABENOW's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for up to 10

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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minutes each and with the time to be under the control of the Senator from Michigan, Ms. STABENOW, or her designee.

Under the previous order, the Senator from West Virginia is recognized.

STEEL

Mr. ROCKEFELLER. Madam President, yesterday the President made very clear what we have all known for a long time in steel country, and that is that he basically does not care whether the American steel industry goes to Japan, Korea, Brazil, Russia, or some other place; that he is willing to see it go as an industry but, much more importantly in terms of my comments, that he is willing to consider perhaps TAA health care benefits for workers who have been destroyed by illegal importing problems. But steelworkers do not count. He specifically, in his statement of administration policy, said: I don't want steelworkers to have any health care retirement—retirement in the sense they do not have any more health benefits. I don't care about them. I want the RECORD to be crystal clear on that.

It is a sad position. It is a terrible day for steel. Somebody is going to get up today, they are going to make a motion, and it is going to be a point of order probably. I don't know when it will happen, who will do it, or how it will happen, but I want my colleagues to be aware of the situation.

Abandoning steelworkers, not allowing them to have health care coverage—we are only talking about 125,000 people as we start the process, none of whom, incidentally, is from the State I represent, the State of West Virginia. But they are just being excluded from the process.

TAA is a wonderful program. We recognize when people are thrown out of work due to imports, they need certain protections. Health care certainly needs to be one of those protections. Unfortunately, TAA does not cover, under its definition, retirees. It only covers active workers, not retirees.

You say retirees, that must be somebody who is in their seventies or eighties, and we should not be doing that here. But it is a very different situation in steel. A retiree in steel might be 35 years old, but the company went chapter 7. That means they turned out the lights, closed the door, pink slips, no health benefits, everything shut down—no bankruptcy problems, just no more existence.

The steelworkers go. They are called retirees, but in fact they are people, younger than average age, but out of health care.

I think it is outrageous. The steelworkers in fact were subjected to import surges which broke American Federal law, the 1974 Trade Act. Other countries did it at will. Our administration has refused to enforce that. So we have dumped steel, which has thrown people out of work. The administration then says: No, steelworkers cannot have health care benefits.

I do not understand how people come to think that way, what their value system is. But it is very clear in steel country that the President of the United States has abandoned the steelworkers of America and that he has abandoned people who have been already thrown out of work and who have no health care benefits, and have children to feed, even as he contemplates reluctantly the idea of doing health care benefits for other eligible active workers.

Let me say this. The President got a lot of credit in steel country for doing something called section 201. It was taking the dumping crisis, the illegal dumping crisis, before the International Trade Commission. He got a lot of credit for that. He pretty much had to do that, I would say—on political grounds, No. 1. But more importantly, the Finance Committee had already voted to do it. The Finance Committee has the same standing legally under the law as does the President, so it was going to happen anyway. So the result would have been the same. The International Trade Commission would have voted unanimously the steel industry was grievously injured by imports and people were hurting badly.

He did that knowing that it would make him somewhat popular in steel country because people were saying: Gee, we just solved the problem. It is not even the beginning of the problem. All that did was buy us time.

We have three steps we have to accomplish. One is we have to do section 201, which buys us time to consider health care costs, which we have to consider if we are going to have consolidation in the steel industry to preserve an American steel industry. It is sort of one of the great basic industries of this country.

We just passed a farm bill yesterday dumping billions and billions of dollars on farms for the hundredth consecutive year. Yet there was no consideration whatsoever for steelworkers. I find that very odd, even as my colleagues make these kinds of judgments.

So, No. 1, he did section 2101. He had to do that. He had no choice politically or procedurally. It just bought us some time. But we have to go on to retirement health care costs. He has washed his hands of that. He says: I want nothing to do with it. He actually writes in the statement of administrative—whatever the word is—practice that he particularly opposes the majority leader's amendment which would include retired steelworkers. He makes that very clear. He wants them cut out of the deal. He wants them excluded.

That is only 125,000 and would probably cost $200 million or $300 million.

I think the farm bill we passed yesterday was $100 billion over 10 years. The proportion in sort of the human dimension of this is rather extraordinary.

The President has also done a lot of tariff exclusions. He has taken a lot of countries out of section 201 that had to pay tariffs because they were illegally dumping steel in the United States and putting our workers out of work. He started to exempt different countries. He has different requirements for that—again, I think in violation of the spirit, if not the letter, of the 1974 Trade Act.

All of us have asked him to stop that. Again, he has washed his hands of steel. He has washed his hands, more importantly, of the steelworkers who can also be called human beings with families—people. It doesn't have to be an industry. They are called human beings. They are Americans. They pay taxes. They do things right. They work in a very dangerous industry. So do farmers. Is a farmer more vulnerable than a steelworker? I do not know. Maybe a farmer is, but not where I come from.

I very much regret this action on his part. Let me conclude by saying this: We now know that the President doesn't have a commitment to steelworkers and to the steel industry. We know he has no regard for how people's lives and entire communities are going to be affected. I have believed that for a long time. Now it is proven. It is clear. He is moving aggressively with the help of some of our colleagues, unfortunately—most of them on the other side but a couple on this side—to simply walk away from steelworkers.

I think that is a kind of betrayal by somebody who claimed to be a friend of the steel industry. The President and the Vice President were in steel country in my part of the world a number of times saying how important steel was to the national defense, how it is basic to Americans, and how they were not going to let them down. When push came to shove, they let them down. They made it very clear.

I want to be incisively precise about that as we start this Thursday so that the people of America understand that.

I don't understand sometimes how people make decisions and what their value systems are, and what kind of fairness is within the fair trade or free trade system. But I do know this: The administration has abandoned any semblance of fairness toward some very decent people in this country called steelworkers.

I thank the Presiding Officer. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Madam President, I commend my colleague from West Virginia for his diligence and compassionate concern for our steelworkers.

Coming from Michigan, I share his deep disappointment and concern about the administration's position.

I know the Senator from West Virginia has been in the Chamber over and over again speaking up for our steelworkers. I thank him on behalf of the steelworkers in Michigan—those in the Upper Peninsula, those downriver in communities near Detroit, and those

who were laid off for several months over the Christmas holidays as a result of the mines having to shut down because of the unfair dumping from other countries. Our steelworkers and mills have been affected.

I can't think of a more passionate advocate, and I am so proud to join with him in his continuing fight. I will be here with him in the Chamber as we do everything possible to make sure we remember the steelworkers, who have been the backbone of building this country, to make sure their health care costs are covered and they are recognized as we look at how we make trade fair in this country.

I thank the Senator.

PRESCRIPTION DRUGS

Ms. STABENOW. Madam President, I want to speak to an issue that relates to health care. I am so honored to join with our colleagues, particularly on this side of the aisle in the Democratic caucus, who continue to work very hard to bring a sense of urgency to the question of health care for our families, to health care insurance, and to affordability for our small businesses and family farmers and the larger business community.

We know today that one of the major costs economically and from a business standpoint—and certainly for families, and particularly for our seniors—is the whole question of being able to provide health care and being able to afford health care for our families.

We also know the major reason we are seeing health care costs rise relates to the uncontrollable increase in prescription drug coverage.

Today, I once again come to the floor to speak about the need for real action now.

I challenge and invite our colleagues on the other side of the aisle and those in the other Chamber who have come forward with principles—the Speaker of the House and those who will be speaking today about a plan—to join with us in something that is real and tangible.

Words are not going to buy prescriptions for seniors. We know there are seniors watching right now who are deciding today whether to pay that utility bill or eat supper tonight or do they do those other things which they need to do in order to have the quality of life we want for our parents and grandparents and older Americans of this country—or do they put all of their money into paying for lifesaving medications? That is not a good choice.

Shame on us for having a situation where seniors have to make that choice. Yet when we come to the floor, we talk about the need for a real Medicare prescription drug benefit. And when we talk about the need to lower prices for all of our families and lower prices for everyone so we have health care available for everyone in this country, we get more words than we get actions.

I am deeply concerned today as we look at what has been proposed by our colleagues on the other side of the Congress, our Republican colleagues in the House have said that they wish to lower the cost of prescription drugs now. Yet at the same time we see old proposals to do minimal kinds of discounts through discount cards and so on—things that are already available which folks want to take political credit for, maybe change the name or maybe put it under Medicare. But it doesn't do anything to actually lower the prices and make prescription drugs more available.

I am very concerned when we come forward with proposals that will, in fact, lower prices that we are not yet seeing the support.

We want that support to be there to be able to use more generic drugs when they are available after the patent has run out—the same drug and the same formulation—and at a lower price.

We want to have the ability to open our borders so we can get the best price of American-made drugs regardless of where they are sold around the world.

In Michigan, simply crossing the bridge to Canada, which is a 5-minute drive, cuts the price in half on American-made drugs. It is not right. We think when we are talking about fair trade we should open the border to the one thing that we don't have fair and open trade on; that is, prescription drugs.

We also know the fastest growing part of the cost of that prescription bottle is advertising costs, and that the top 11 Fortune 500 companies, last year, spent 2½ times more on advertising than research.

I was pleased to join with my colleagues earlier this week in introducing legislation to simply say: If you are doing more advertising than research, taxpayers are not going to subsidize it. We will allow you to deduct the amount of advertising and marketing that you do up to the level that you spend in research. We want more research. We want more innovative drugs. We do not want more market research; we want more medical research. So we propose items to lower costs to help everyone, right now, to lower those prices.

We also come forward saying it is time to update Medicare for today's health care system. When Medicare was set up in 1965, it covered the way health care was provided in 1965. If you went into the hospital, maybe you had a little penicillin, or maybe you had an operation in the hospital, and Medicare covered it.

Medicare is a great American success story. But health care treatments have changed. I have a constituent who showed me a pill he takes once a month that has stopped him from having to have open-heart surgery. It is a great thing: One pill a month. The pill costs $400. I said: I want to take a close look at that pill. I hope it is gold plated. But the reality is, that pill stops expensive open-heart surgery and allows this person to be able to continue living and enjoying a wonderful quality of life with his wife and family.

If he went in for that surgery, Medicare would cover it. They don't cover the pill. So that is what we are talking about. But we need this to be comprehensive.

When our colleagues come forward, and their second principle is guaranteeing all senior citizens prescription drug coverage, we say: Yes, come join with us. Let's make it real. But, unfortunately, when we run the numbers on what is being talked about—and the bill has not been introduced yet, but we have all kinds of information about what appears to be coming. From what we know, let me share with you some of the numbers.

If you are a senior or if you are disabled and you have a $300-a-month prescription drug bill, which is not uncommon, when you get all done with the copays and the premiums and the deductibles that they are talking about, you would end up, out of $3,600 worth of prescriptions, paying, out of pocket, $2,920. So less than 20 percent of your bill would be covered under Medicare.

That is not what we are talking about. That is not comprehensive coverage under Medicare. That is really a hoax. That is a proposal being put forward to guarantee all seniors prescription drug coverage that is words, not actions. Again, words will not pay the bills. Words will not guarantee that seniors get one more prescription covered, that they will get that blood pressure medicine, that they will get that cholesterol medicine, or make sure they have that pill that stops them from having to have that open-heart surgery.

So we come today to this Chamber to say: Yes, guarantee all seniors prescription drug coverage. But the proposal coming forward by the Speaker of the House, and those on the other side of this building, will not do it. Unfortunately, what is being talked about will add insult to injury because they are talking about paying for their less-than-20-percent coverage by another cut to hospitals.

I know the Presiding Officer from New York shares the same concern I have because I know hospitals in New York have been cut, hospitals in Michigan have been cut. My colleague from Florida is in the Chamber. I know he has the same stories—and our leader from Nevada. We know that whether it is rural hospitals or urban hospitals or suburban hospitals, they have had enough cuts under Medicare. It is unbelievable we would be talking about another cut for hospitals while they are proposing this minimal prescription drug benefit.

The other thing I find incredible is that they are talking about a copay of $50 for home health visits. We already have seen dramatic cuts. We have had over 2,500 home health agencies close

across this country because of the excessive cuts in home health care payments since 1997. Many of us have been saying: Enough is enough.

We cannot say that the home health help you need will cost more when we are trying to give a little bit of help with prescription drugs because it is the combination of home health care and prescription drugs that allows people to live at home when they have health care needs. It allows families to take care of mom or dad or grandpa or grandma, to make sure if someone is disabled and needs care at home, that they are not inappropriately placed into a nursing home or out-of-home care. The combination of home health care and affordable prescription medications will help our families care for their loved ones and help people to live in dignity at home.

So I find it incredible that you would have, first of all, a minimal proposal on prescription drugs coming forward, and then it would be coupled with the fact they are talking about cutting hospitals and copays for home health care to pay for it. This is an amazing situation to me.

We need to be strengthening Medicare, not undermining it. Many of the other parts of this proposal would turn Medicare over to private insurance companies. It would basically create a situation where the drug companies or insurance companies may believe they benefit but at the expense of our seniors.

I am going to yield a moment to my colleague from Florida, who I know cares deeply about this subject. I thank him for coming to the floor today to join me, as we rise to say to our Republican colleagues in the House of Representatives: Come join with us. Come join with us to make sure we can, in fact, put the words into action. Words are not enough. We need comprehensive Medicare prescription drug coverage. We need to lower prices now.

I yield time to my colleague from Florida.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. I thank the Senator from Michigan for yielding. I want to underscore a number of the remarks the Senator from Michigan made—this issue of health care, home health care, and prescription drugs.

I start my comments by saying, has the Bush administration taken leave of its senses with regard to a number of these proposals? What the Senator from Michigan has just said in relation to copayments for home health care, home health care is something we want to encourage. Home health care is certainly an alternative to being in a nursing home from a cost standpoint. It is certainly a cost incentive as an alternative to being in a hospital. But home health care, if it is the right kind of medical care, is also a lot better quality of life for the patient than having to be in a nursing home or a hospital, if that is the appropriate medical care, because they are surrounded by family in their home.

The Bush administration now wants to propose a new copayment. Therefore, for senior citizens who are having difficulty paying medical bills as it is, because Medicare does not cover everything, now the Bush administration wants, in fact, them to pay more in order to be eligible for home health care? Have they taken leave of their senses?

Take, for example, what the Senator mentioned on prescription drugs. The Bush administration is saying: Oh, we want a prescription drug benefit. Well, certainly all of us do. Why? Because Medicare was set up in 1965 when health care was organized around acute care in hospitals. But 37 years later, health care is a lot different. Thank the Good Lord for the miracles of modern medicine.

So to provide those miracles of modern medicine—otherwise known as prescription drugs—to our senior citizens, we ought to be modernizing Medicare by adding a prescription drug benefit.

The administration says: Yes, we want it. But they are saying, $190 billion over 10 years. That is a drop in the bucket.

The ACTING PRESIDENT pro tempore. Time for morning business has expired.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that I may proceed for 5 additional minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Madam President, that would be fine. It may necessitate having the vote at 5 after rather than on the hour.

Mr. LEAHY. I have no objection, provided we then still keep the period of time prior to the next vote the same amount of time and the vote will have to slip 5 minutes.

Mr. REID. I say to my friend from Florida, I also got a nod from the minority that that is fine. We will ask that the vote be scheduled for 5 after 11 and that the Senator from Florida be recognized for an additional 5 minutes—I am sorry, 11:35.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida.

Mr. NELSON of Florida. I thank my colleagues. They are very generous with the time. I thank the Chair.

I was talking about prescription drugs and providing a realistic prescription drug benefit by modernizing Medicare. We talked about a level in the last campaign. This was a primary topic of concern. In every television debate I had, this issue came up. The level we were talking about was in the range of $300 to $350 billion for a prescription drug benefit over a 10-year period.

The fact is, the escalating cost of prescription drugs is going to be more than that. Of course, with a budget that now has no surplus—we had about 14 months ago an ample surplus for the next decade—it is going to be very difficult. But we are going to have to face that fact. And don't talk about window dressing of $190 billion over a decade because that is not going to cut it. For example, why don't we step up to the plate on Medicare reimbursement? Look at the doctors and the hospitals that are having difficulty making it because Medicare is not reimbursing on a realistic payment schedule. We are going to have to address that.

I say to my colleague from the great State of Michigan, the fact is, eventually this country is going to have to face the fact of health care reform in a comprehensive way. What are we going to do about 44 million people in this country who don't have health insurance? The fact is, they don't have health insurance, but they get health care. They get it at the most expensive place, at the most expensive time; that is, when they get sick. They end up in the emergency room, which is the most expensive place at the most expensive time because without preventative care, when the sniffles have turned into pneumonia, the consequence is that the costs are so much higher.

Ms. STABENOW. Will my colleague be willing to yield for a moment?

Mr. NELSON of Florida. Certainly.

Ms. STABENOW. He raises such an important point about prevention. That is why I know we care so much about the issue of prescription drugs. By making prescription drugs available on the front end, that is part of that prevention, along with comprehensive care, making sure that people are able to receive the medicine they need before they get deathly sick and need to go into a hospital or need an operation.

My colleague raises such an important point, and it is one of the reasons we are working so hard to make Medicare available with prescription drugs and to also lower the prices for everyone. Part of that prevention is making sure that seniors have access to the medicine they need to prevent more serious injuries and illnesses from happening.

Mr. NELSON of Florida. And comprehensive health care reform has to deal with the 40-plus million who don't have health insurance by creating a system whereby they are covered. That then allows the principle of insurance to work for you because the principle of insurance is that you take the largest possible group to spread the health risk, and when you do that, you bring down the per-unit cost. Thus, any comprehensive plan is going to have to have pooling of larger groups. It is going to have to have consumer choice. It is going to have to have free market competition to get the most efficiency, and it is going to have to have universal coverage.

I thank the Chair for the opportunity to join the debate on prescription drugs.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATIONS OF LEONARD E. DAVIS TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS; ANDREW S. HANEN TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS; SAMUEL H. MAYS, JR. TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE; THOMAS M. ROSE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10:35 having arrived, the Senate will now go into executive session and proceed to the consideration en bloc of Executive Calendar Nos. 811, 812, 813, and 814, which the clerk will report.

The assistant legislative clerk read the nominations of Leonard E. Davis, of Texas, to be U.S. District Judge for the Eastern District of Texas;

Andrew S. Hanen, of Texas, to be U.S. District Judge for the Southern District of Texas;

Samuel H. Mays, Jr., of Tennessee, to be U.S. District Judge for the Western District of Tennessee;

Thomas M. Rose, of Ohio, to be U.S. District Judge for the Southern District of Ohio.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour of debate on the nominations, to be equally divided between the chairman and ranking member of the Judiciary Committee or their designees.

The Senator from Vermont.

Mr. LEAHY. Madam President, today the Senate is considering, as the Chair has reported, four more of President Bush's judicial nominees. We will begin voting on those nominees in about an hour.

I rarely predict the outcome of votes in the Senate. Having been here 28 years, I have had enough chances to be wrong in my predictions, but I will predict, with a degree of certitude, that these will be another four of President Bush's judicial nominees that we will confirm.

These confirmations demonstrate, as has been demonstrated with each of the judges we have confirmed in the past ten months, with the exception of one, that we have taken up nominees in the Senate Judiciary Committee, that they have gone through the committee and, when they have reached the floor, have been confirmed.

Democrats have demonstrated over and over again that we are working with the President on fundamental issues that are important to this country, whether it is our support for the war on terrorism, support for strong and effective law enforcement, or our effort to work collaboratively to lower judicial vacancies.

For a bit of history, when the Democrats took over the full Judiciary Committee in July of last year, there were 110 vacancies. My Republican colleagues had not held any judicial confirmation hearings at all prior to the time we took over, despite the fact that there were a number of pending nominations when they first came into power. Then there were, of course, nominations that President Bush sent to the Senate in May. But as of July, when we took over, the Republican-controlled committee had not held any hearings. Ten minutes after we took over the committee and I became chairman, we announced hearings on a number of the President's nominees.

I mention this to put in perspective that we have tried to move quickly. We inherited 110 vacancies. Interestingly enough, most of the vacancies occurred while the Republicans were in control of the Senate, notwithstanding the fact that former President Clinton had nominated people to fill most of those vacancies. But those nominees were never given a hearing. They were never allowed, under Republican leadership, to go forward.

Last Friday, when the Democratic Senators were out of town on a long planned meeting, President Bush spoke about what he now calls the ''judicial vacancy crisis.'' I was disappointed that the White House speech writers chose a confrontational tone and tried to blame the Democratic Senate majority, which has actually been the majority in the Judiciary Committee for only about 10 months.

The fact is, we inherited 110 judicial vacancies on July 10, 2001. The fact is, the increase in vacancies had not occurred on the watch of the Democratic Senate majority but in the period between January 1995 and July 2001, when the Republican majority on the committee stalled President Clinton's moderate nominees and overall vacancies rose by almost 75 percent—from 63 to 110. That is what we inherited because the other side would not hold hearings. Vacancies on the courts of appeals rose even more. They more than doubled, from 16 to 33.

I don't expect President Bush to know these numbers or to be that involved with them. But his staff does, and when they write his speeches, they ought to do him the favor of being truthful. They ought to know that the Federal judiciary is supposed to be independent and outside of partisan political battles, and they should not have drawn him into one, which makes it even worse.

It is bad enough when Republicans in the Senate threaten and seek to intimidate on this issue, but we are now being threatened with a shutdown of the Senate's business, a shutdown of committee hearings, a refusal to work together on unemployment, trade, and other important matters. It was bad enough when they utilized secret holds and stalling tactics in considering President Clinton's moderate judicial nominees, but now they bemoan the judicial vacancies that were created and take no responsibility for creating these vacancies. They seek to blame others. It is really too bad that the White House now appears to be rejecting all of our efforts—and they have been significant—at reconciliation and problem solving. Instead, the White House has joined the partisan attack.

The fact is, since last July, when we took over the majority, we have been working hard to fill judicial vacancies. We have had more hearings on more judicial nominees and confirmed more judges than our Republican predecessors ever did over any similar period of time. Actually, it is hard to know when there was a similar period in time. The Senate and the Judiciary Committee had to work in the aftermath of the attacks of September 11 and we kept on meeting. We were in this Chamber on September 12. We had the anthrax attacks on the Senate, on Majority Leader DASCHLE and, I hate to say, one on me, as chairman of the Senate Judiciary Committee. The New York Times reported it as the most deadly of all. While working to fill judicial vacancies, we were also approving executive branch nominees—Attorney General Ashcroft and others—and we were considering the Antiterrorism Act.

In my 28 years here, I have never known a time when the Judiciary Committee, or any committee, was hit with so many things that it had to do in such a short period of time and under so much pressure. The Hart Building, housing half of the Senators, was closed down. At times, this building was closed down. Senator DASCHLE and I and our staffs were under actual physical attacks with the anthrax letters. I mention that because this afternoon we are going to hold our 18th hearing for judicial nominees within 10 months—unless, of course, the other side objects to our proceeding.

By the end of today, the Senate will have confirmed 56 new judges, including 9 to the courts of appeals, within the last 10 tumultuous months—an all-time record.

I am sorry that the White House and our Republican colleagues do not acknowledge our achievements but choose, instead, to only criticize. I regret that the White House and our Republican colleagues will not acknowledge that the obstructionism of the Republican Senate majority between 1996 and 2001 is what created what they now term a ''vacancy crisis.''

When they were engaged in those tactics, some Republicans defended their record then by arguing that 103 vacancies was not a crisis. They actually did that. They said in an op-ed piece that having 103 vacancies was not a crisis. They let it go to 110.

The Democratic majority has cut back those vacancies. We have not only

kept up with attrition, we have cut them back. Under a Democratic President, some Republicans said 103 vacancies was not a crisis, but now, with a Republican President, they say that 84 vacancies is a crisis—even as we confirm judges at a record pace.

I have been here with six Presidents—Republican and Democrat. I have never seen a time when any White House has made the issue of the makeup of the Federal judiciary such a partisan issue. I am a lawyer, as is the distinguished Presiding Officer. I have argued cases before Federal courts, both at the district level and at the appellate level.

One thing I have always known when I walked into a Federal court in America is that it is an impartial court, where you are not looked at as a Republican or a Democrat, whether you are rich or poor, whether you are white or black, plaintiff or defendant, or liberal, conservative or moderate. You can always go into a Federal court here and think that you will be treated on the merits of your case. That is why I regret the lack of balance and the bipartisan perspective that was lacking in the President's speech and in the comments of some of my colleagues.

The Senate would do a disservice to the country if we allowed ideological court packing of the left or the right, if we were to put a stamp on Federal courts and say: ''He who enters here, if you do not fit the ideological rubber stamp of this court, if you cannot respond and say you fit in a certain mold, according to the speeches of the President's advisers—a very narrow ideological spectrum—forget about it when you come in here.'' If anybody would take time to read a history book, they would understand that it is the Senate's role to ensure that the judges it confirms meet the standards for impartiality and fairness.

A very popular President, a wartime President, Franklin Delano Roosevelt, a revered President, tried to pack the courts, and the Senate said: no, you cannot do that. Every historian will tell you today: Thank goodness the Senate has stood up to a popular wartime President and said you cannot pack the courts because it would destroy the independence of the Federal judiciary.

I say this because sometimes we sit here and think we have to decide on issues just for today. We have a responsibility in the Senate to decide issues for history's sake and for the good of this country. I want to know that each one of us can go back to our constituents and say that we have preserved an independent judiciary. That does not mean just all one party. I have voted for hundreds upon hundreds of judges who stated that they were Republicans. I have voted for hundreds of judges nominated by Republican Presidents. But I will not allow an ideological shift one way or the other on the courts.

I have voted for judges whom I know have a different personal view on the right-to-life issues than I and who have taken different positions on the death penalty. But I knew they would be fair judges. I will continue to do that. That is our responsibility as Senators to our country, to the judiciary, and to history.

With today's votes, the number of Federal judges confirmed since the change in Senate majority 10 months ago now totals 56. Under Democratic leadership, the Senate has confirmed more judges in 10 months than were confirmed by the Republican-controlled Senate in the 1996 and 1997 sessions combined. We have accomplished in less than 1 year what our predecessors and critics took 2 years to do. It took a staunchly Republican majority 15 months working closely with the Reagan administration to reach this number of confirmations, confirmations we have achieved in just 10 months.

Of course the ''anniversary'' of the reorganization of the Judiciary Committee after the shift in majority last year is not until July 10, more than 2 months from now. On July 10 last year we inherited 110 judicial vacancies, including 33 on the courts of appeals. Since then, 30 additional vacancies, including 5 on the courts of appeals have arisen. This is an unusually large number. Nonetheless, through hard work and great effort, the Democratic majority in the Senate has proceeded with 17 hearings involving 61 judicial nominees, the committee has voted on 59 nominees, and, today, the Senate is set to hold its 18th hearing involving four more judges and to approve four more new judges—bringing the working total to 56 confirmations in just 10 months.

The number of judicial confirmations over these past 10 months, 56, exceeds the number confirmed in 4 out of 6 full years under recent Republican leadership, during all 12 months of 2000, 1999, 1997, and 1996. And we have confirmed more judges at a faster pace than for all the years of Republican control.

Fifty-six confirmations exceeds the number of confirmations in the first year of the Reagan administration by a Republican Senate majority. It is almost double the number of confirmations in the first year of the Clinton administration by a Democratic Senate majority. And it is more than triple the number of judges confirmed for the George H.W. Bush administration by a Senate of the other party. In fact, with 56 confirmations for President George W. Bush, the Democratic-led Senate has confirmed more judges than were confirmed in 7 of the 8 whole years of the Reagan administration, that Senator HATCH acknowledges as the all-time leader in judicial appointments.

The confirmations of Justice Leonard Davis, Andrew Hanen, Samuel Mays, and Judge Thomas Rose today illustrate the progress being made under Democratic leadership, and the fair and expeditious way in which we have considered nominees. Many of the vacancies that will be filled by today's votes arose during the Clinton administration and are a prime and unfortunate legacy of recent Republican obstructionist practices.

The confirmations of Justice Davis and Mr. Hanen will make the third and fourth district court judgeships we have filled in Texas and the eighth and ninth judgeships we have filled overall in the Fifth Circuit since I became chairman last summer. Included among those confirmations is the first new judge for the Fifth Circuit in 7 years.

On February 5, the Senate confirmed, by a vote of 93 to 0, Judge Philip Martinez of Texas to fill a judicial emergency vacancy on the District Court for the Western District of Texas. On March 18, the Senate confirmed, by a vote of 91 to 0, Robert (Randy) Crane to fill a judicial emergency vacancy on the District Court for the Southern District of Texas. The Senate has confirmed Judge Kurt Engelhardt and Judge Jay Zainey to fill vacancies on the District Court for the Eastern District of Louisiana. The Senate has confirmed Judge Michael Mills to fill a vacancy on the District Court for the Northern District of Mississippi. Despite the unfounded claim of some Republicans that the Senate will not confirm conservative Republicans, these nominees were all confirmed and treated more fairly and expeditiously than many of President Clinton's nominees for the Federal Bench.

Mr. Hanen was nominated to fill the vacancy created by the retirement of Judge Filemon B. Vela in May 2000. I recall just 2 years ago when Ricardo Morado, who served as mayor of San Benito, TX, was nominated to fill this vacancy in the Southern District of Texas and never received a hearing from the Republican-controlled Senate. President Clinton nominated Ricardo Morado on May 11, 2000, and his nomination was returned to President Clinton without any action on December 15, 2000. In filling a judicial emergency vacancy that has been pending for more than 700 days, Mr. Hanen will be the 17th judicial emergency vacancy that we have filled since July and the 10th since the beginning of this session.

With the confirmation of Mr. Hansen, there will no longer be any vacancies on the District Court for the Southern District of Texas, a Court which has faced an extraordinary caseload and has the third highest number of filings of criminal cases in the country. With Judge Crane and Judge Hanen, we have provided much needed help to this court.

It was not long ago when the Senate was under Republican control, that it took 943 days to confirm Judge Hilda Tagle to the United States District Court for the Southern District of Texas. She was first nominated in August 1995, but not confirmed until March 1998. When the final vote came, she was confirmed by unanimous consent and without a single negative vote, after having been stalled for almost 3 years. I recall the nomination of

Michael Schattman to a vacancy on the Northern District of Texas. He never got a hearing and was never acted upon, while his nomination languished for over two years. These are district court nominations that could have helped respond to increased filings in the trial courts if acted upon by the Senate over the last several years. In addition to these nominees, the Republican-led Senate failed to provide any hearings on nominees to the Court of Appeals for the Fifth Circuit, which includes Texas, during the entire 6 years of their majority in the Clinton administration.

Many of the vacancies in the Fifth Circuit are longstanding. For example, despite the fact that President Clinton nominated Jorge Rangel, a distinguished Hispanic attorney, to fill a fifth circuit vacancy in July 1997, Mr. Rangel never received a hearing and his nomination was returned to the President without Senate action at the end of 1998. On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill a vacancy on the fifth circuit but that nominee never received a hearing either. When President Bush took office last January, he withdrew the nomination of Enrique Moreno to the fifth circuit.

The surge of vacancies created on the Republicans' watch is being cleaned up under Democratic leadership in the Senate. The Senate received Justice Davis's and Mr. Hanen's nominations the last week in January. Their ABA peer reviews were not received by the committee until late March and early April. Both participated in a confirmation hearing on April 25, were considered and reported by the committee last week and are being considered and confirmed by the Senate today.

Justice Davis has been serving as Chief Justice of the Court of Appeals in Tyler, TX, since 2000 and has extensive experience practicing as a litigator before State and Federal courts. Mr. Hanen has legal experience working as a civil trial attorney and in private practice for over 20 years, and has been a leader in establishing programs to serve the needs of the disadvantaged.

The confirmations of Mr. Mays of Tennessee and Judge Rose of Ohio, will fill two judgeships in the sixth circuit. They will make the fourth and fifth district court judgeships we have filled overall in the sixth circuit since I became chairman last summer, including the three earlier confirmations from Kentucky.

The Sixth Circuit Court of Appeals currently has eight vacancies, many of which are longstanding. Six of those vacancies arose before the Judiciary Committee was permitted to reorganize after the change in majority last summer. None, zero, not one of the Clinton nominees to those vacancies on the sixth circuit received a hearing by the Judiciary Committee under Republican leadership.

One of those seats has been vacant since 1995, the first term of President Clinton. Judge Helene White of the Michigan Court of Appeals was nominated in January 1997 and did not receive a hearing on her nomination during the more than 1,500 days before her nomination was withdrawn by President Bush in March of last year. Kathleen McCree Lewis, a distinguished lawyer from a prestigious Michigan law firm, also did not receive a hearing on her 1999 nomination to the sixth circuit during the years it was pending before it was withdrawn by President Bush in March 2001. Professor Kent Markus, another outstanding nominee to a vacancy on the sixth circuit that arose in 1999, never received a hearing on his nomination before his nomination was returned to President Clinton without action in December 2000.

Some on the other side of the aisle held these seats open for years for another President to fill, instead of proceeding fairly on consensus nominees. Some were unwilling to move forward knowing that retirements and attrition would create four additional seats that would arise naturally for the next President. That is why there are now eight vacancies on the sixth circuit. That is why it is half empty or half full.

Long before some of the recent voices of concern were raised about the vacancies on that court, Democratic Senators in 1997, 1998, 1999, and 2000 implored the Republican majority to give the sixth circuit nominees hearings. Those requests, not just for the sake of the nominees but for the sake of the public's business before the court, were ignored. Numerous articles and editorials urged the Republican leadership to act on those nominations. Fourteen former presidents of the Michigan State Bar pleaded for hearings on those nominations.

The former chief judge of the sixth circuit, Judge Gilbert Merritt, wrote to the Judiciary Committee chairman years ago to ask that the nominees get hearings and that the vacancies be filled. The chief judge noted that, with four vacancies—the four vacancies that arose in the Clinton administration—the sixth circuit ''is hurting badly and will not be able to keep up with its work load due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our Court.'' He predicted:

> By the time the next President is inaugurated, there will be six vacancies on the court of appeals. Almost half of the court will be vacant and will remain so for most of 2001 due to the exigencies of the nomination process. Although the President has nominated candidates, the Senate has refused to take a vote on any of them.

Nonetheless, no sixth circuit hearings were held in the last 3 years of the Clinton administration, despite these pleas. Not one. Since the shift in majority the situation has been exacerbated as two additional vacancies have arisen.

With our April 25 hearing on the nomination of Judge Gibbons to the sixth circuit, we held the first hearing on a sixth circuit nomination in almost 5 years. And, with the confirmations of Judge Rose and Mr. Mays, we have now confirmed all the nominees to the district courts in the sixth circuit for whom we have received nominations. I note that the White House has still not sent nominees for the six remaining vacancies that exist on the district courts in the sixth circuit.

As our action today demonstrates, again, we are moving at a fast pace to fill judicial vacancies with nominees who have strong bipartisan support. Partisan critics of these accomplishments ignore the facts. The facts are that we are confirming President Bush's nominees at a faster pace than the nominees of prior presidents, including those who worked closely with a Senate majority of the same political party.

The rate of confirmation in the past 10 months actually exceeds the rates of confirmation in the past three presidencies. For example, in the first 15 months of the Clinton administration, 46 judicial nominees were confirmed, a pace on average of 3.1 per month. In the first 15 months of the first Bush administration, judges were confirmed at a pace of 1.8 judges per month. Even in the first 15 months of the Reagan administration, when a staunchly Republican majority in the Senate was working closely with a Republican President, 54 judges were confirmed, a pace of 3.6 per month. In fewer than 10 months since the shift to a Democratic majority in the Senate, President George W. Bush's judicial nominees have been confirmed at a rate of 5.6 judges per month, a faster pace than for any of the past three Presidents.

During the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year—a pace of consideration and confirmation that we have already exceeded under Democratic leadership over these past 10 months in spite of all of the challenges facing Congress and the Nation during this period and all of the obstacles Republicans have placed in our path. As of today, we have confirmed 56 judicial nominees in fewer than 10 months. This is more than twice as many confirmations as George W. Bush's father had over a longer period—27 nominees in 15 months—than the period we have been in the majority in the Senate.

The Republican critics typically compare apples to oranges to mischaracterize the achievements of the last 10 months. They complain that we have not done 24 months of work in the 10 months we have been in the majority. Ironically, with today's confirmations, we even meet that unfair standard: Within the last 10 months we have confirmed more judges than were confirmed by the Republican majority in the entire 1996 congressional session and in all of 1997 combined—we have now exceeded their 2-year figure in 10 months.

A fair examination of the rate of confirmation shows that Democrats are

working harder and faster on judicial nominees, confirming judges at a faster pace than the rates of the past 20 years. The double standards asserted by Republican critics are just plain wrong and unfair, but that does not seem to matter to Republicans intent on criticizing and belittling every achievement of the Senate under a Democratic majority.

The Republican attack is based on the unfounded notion that the Senate has not kept up with attrition on the district courts and the courts of appeals. Well, the Democratic majority in the Senate has not only been keeping up with attrition but outpacing it, and we have started to move the vacancies numbers in the right direction—down. By contrast, from January 1995 when the Republican majority took over control of the Senate until July 2001, when the new Democratic majority was allowed to reorganize, Federal judicial vacancies rose by almost 75 percent, from 63 to 110. When Members were finally allowed to be assigned to committees on July 10, we began with 110 judicial vacancies.

With today's confirmations of Justice Davis, Mr. Hanen, Judge Rose, and Mr. Mays, we have reduced the overall number of judicial vacancies to 84. Already, in fewer than 10 months in the majority, we more than kept up with attrition and begun to close the judicial vacancies gap that grew so enormous under the Republican majority. Under Democratic leadership, we have reduced the number of district court vacancies by nearly 30 percent and the overall number of judicial vacancies by nearly 25 percent.

Overall, in 10 months, the Senate Judiciary Committee has held 17 hearings involving 61 judicial nominations and is scheduled this afternoon to hold its 18th hearing today involving four more judicial nominees. That is more hearings on judges than the Republican majority held in any year of its control of the Senate—twice as many as they held during some full years. Recall that one-sixth of President Clinton's judicial nominees—more than 50—never got a committee hearing and committee vote from the Republican majority, which perpetuated longstanding vacancies into this year.

Despite the new-found concern from across the aisle about the number of judicial vacancies, no nominations hearings were held while the Republicans controlled the Senate during the first half of last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001.

The Democratic leadership acted promptly to address the number of district and circuit vacancies that had been allowed to grow when the Senate was in Republican control. The Judiciary Committee noticed the fist hearing on judicial nominations within 10 minutes of the reorganization of the Senate and held that hearing on the day after the committee was assigned new members.

That initial hearing included two district court nominees and a court of appeal nominee on whom the Republican majority had refused to hold a hearing the year before. Within 2 weeks of the first hearing, we held a second hearing on judicial nominations that included another court of appeals nominee. I did try to schedule some district court nominees for that hearing, but none of the files of the seven district court nominees pending before the committee was complete. Similarly, in the unprecedented hearings we held for judicial nominees during the August recess, we attempted to schedule additional district court nominees but we could not do so if their paperwork was not complete. Had we had cooperation from the Republican majority and the White House in our efforts, we could have held even more hearings for more district court nominees. Nevertheless, including our hearing scheduled for this week, in 10 tumultuous months, the committee will have held 18 hearings involving 65 judicial nominations.

The Senate Judiciary Committee is holding regular hearings on judicial nominees and giving nominees a vote in committee, in contrast to the practice of anonymous holds and other obstructionist tactics employed by some during the period of Republican control. The Democratic majority has reformed the process and practices used in the past to deny committee consideraiton of judicial nominees. We are moving away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home State Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

I hope to hold additional hearings and make additional progress on judicial nominees. In our efforts to address the number of vacancies on the circuit courts we inherited from the Republicans and to respond to what the President, Vice President CHENEY and Senator HATCH now call a vacancy crisis, the committee has focused on consensus nominees. This will help end the crisis caused by Republican delay and obstruction by confirming as many of the President's judicial nominees as quickly as possible.

Most Senators understand that the more controversial nominees require greater review. This process of careful review is part of our democratic process. It is a critical part of the checks and balances of our system of government that does not give the power to make lifetime appointments to one person alone to remake the courts along narrow ideological lines, to pack the courts with judges whose views are outside of the mainstream of legal thought, and whose decisions would further divide our nation. The Senate should not and will not rubber stamp nominees who would undermine the independence and fairness of our Federal courts. It is our responsibility to preserve a fair, impartial and independent judiciary for all Americans, of all races, all religions, whether rich or poor, whether Democrat or Republican.

Some on the other side of the aisle have falsely charged that if a nominee has a record as a conservative Republican, he will not be considered by the committee. That is simply untrue. Take, for example, the nomination of Mr. Mays. Mr. Mays has been involved in more than 50 political campaigns on behalf of Republican candidates for President, Senate, Governor, and local offices. He is a member of the Republican National Lawyers Association. He was a delegate to the Republican National Convention in 2000, and he was on the Executive Committee of the Tennessee Republican Party from 1986 through 1990. Thus, it would be wrong to claim that we will not consider President George W. Bush's nominees with conservative credentials. We have done so repeatedly.

The next time Republican critics are bandying around charges that the Democratic majority has failed to consider conservative judicial nominees, I hope someone will ask those critics about Mr. Mays, or all the Federalist Society members and Republican Party activists this Senate has already confirmed. I certainly do not believe that President Bush has appointed 56 liberal judges and neither does the White House.

The committee continues to try to accommodate Senators from both sides of the aisle. The court of appeals nominees included at hearings so far this year have been at the request of Senators GRASSLEY, LOTT, SPECTER, ENZI, SMITH, and THOMPSON, six Republican Senators who each sought a prompt hearing on a court of appeals nominee who was not among those initially sent to the Senate in May 2001.

The whipsawing by the other side is truly remarkable. When we proceed on nominees that they support and on whom they seek action, we are criticized for not acting on others. When we direct our effort to trying to solve problems in one circuit, they complain that we are not acting in another. Since these multiple problems arose on their watch while they were in the majority, it is a bit like the arsonist who complains that the local fire department is not responding fast enough to all of his destructive antics.

I imagine that today we will be hearing a refrain about the most controversial of President Bush's nominees who

have not yet participated in a hearing. Some of them do not have the necessary home-State Senate support needed to proceed. Some will take a great deal of time and effort for the committee to consider. In spite of all we have done and all we are doing, our partisan critics will act as if we have not held a single hearing on a single judicial nominee. They will not acknowledge their role in creating what they now call a judicial vacancies crisis. They will not apologize for their harsh tactics in the 6½ years that preceded the shift in majority. They will not acknowledge that the Democratic majority has moved faster on more judges than they ever did. They will not acknowledge that we have been working at a record pace to seek to solve the problems they created.

Each of the 56 nominees confirmed by the Senate has received the unanimous, bipartisan backing of the committee. Today's confirmations make the 53rd through 56th judicial nominees to be confirmed since I became chairman last July. I would like to commend the members of the Judiciary Committee and our Majority Leader Senator DASCHLE and Assistant Majority Leader Senator REID for all of their hard work in getting us to this point. The confirmation of the 56th judge in 10 months, especially these last 10 months, in spite of the unfair and personal criticism to which they have each been subjected, is an extraordinary achievement and a real example of Democratic Senators acting in a bipartisan way even when some on the other side have continued to make our efforts toward progress as difficult as possible.

I again invite the President to join with us to fill the remaining judicial vacancies as quickly as possible with qualified, consensus nominees, nominees chosen from the mainstream and not for their ideological orientation, nominees who will be fair and impartial judges and will ensure that an independent judiciary is the people's bulwark against a loss of their freedoms and rights.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am grateful for this opportunity to talk about some of the things that are going on with regard to judges.

I believe that my chairmanship of the Senate Judiciary Committee and the record we established during the Clinton administration have been viciously attacked through the last number of months. There seem to be a number of illusions floating around Capitol Hill relating to this committee's handling of judges during my tenure.

I am here to set the record straight. I am here to help everybody else know what that record is.

The Democrats are in power. They set the pace and agenda for such nomination hearings, and they have a right to do so. I want to shine a candle through five points that never seem to have seen the light of day in past discussions of confirmations.

First, there is a seemingly immortal myth around here that it was the Republicans who created the current vacancy crisis by stalling President Clinton's nominees. That is purely and unmistakably false. The fact is, the number of judicial vacancies decreased by 3 during the 6 years of Republican leadership while I was chairman over what it was when the Democrats controlled.

There were 70 vacancies when I became chairman of the Judiciary Committee in January of 1995 and President Clinton was in office, and there were 67 at the close of the 106th Congress in December 2000 and the end of President Clinton's Presidency. The Republicans did not create or even add to the current vacancy crisis.

Each Member of this Senate is entitled to his or her opinion on what happened, but not to his or her own set of facts. Enron-type accounting should not be employed regardless of which liberal interest group is insisting on it when we are talking about something as serious as our independent judiciary.

Second, there has been considerable sleight of hand when it comes to the true overall record of President Clinton's nominations. I worked well with President Clinton. I did everything in my power to help him with his nominations. One person does not control everything, but I did everything I knew how.

The undisputed fact is that Republicans treated a Democratic President equally as well as they did a Republican. We did not use any litmus tests, regardless of our personal views, whether it was abortion, religion, race, or personal ideology. I am disappointed to note that seems to be precisely what is happening with the Democrat-controlled Senate now.

Let's be honest and look at the facts. During President Clinton's 8 years in office, the Senate confirmed 377 judges, essentially the same as, only 5 fewer than, the all-time confirmation champion, Ronald Reagan, who had 382. President Reagan enjoyed 6 years of his own party controlling the Senate, while President Clinton had only 2. President Clinton had to put up with 6 years of a Republican-controlled Senate.

This proves that the Republicans did not let partisanship get in the way of principle when it came to judicial nominations. True, there were individual instances where a handful of nominees did not move, but it was nothing like the systematic and calculated stalling tactics being employed by this Democratic Senate to stop President Bush's highly qualified nominees.

At this point, I should also add the Clinton nominees we confirmed were no mainstream moderates as some of us have been led to believe. We confirmed nominees—and I am going to mention four—in one circuit; all four were moved up to the Ninth Circuit Court of Appeals. We confirmed Ninth Circuit nominees such as Judge Marcia Berzon, Judge Richard Paez, Judge Margaret Morrow, and Judge Willie Fletcher, and I could go on down the line. These nominees were confirmed with my support as chairman. I can tell you not a single one of these would be characterized, by any measure of the imagination, as nominees with political ideology within the moderate mainstream. I have personal political views almost completely opposite them, but they were confirmed.

I applied no litmus test to them. I reviewed them on their legal capabilities and qualifications to be a judge, and that is all I am asking from the Democrat majority. That is not what is happening. It is clear there is this wholesale, calculated, slow-walking of President Bush's nominees and particularly for the circuit court nominees.

Last year on this very day, May 9, we had 31 vacancies in the circuit courts of appeals. Today there are 29—2 fewer. We are not making a lot of headway on these very important circuit court nominations.

I might add, yes, it took a lengthy period to go through some of these nominees. Sometimes it was because objections were made; sometimes it was because of further investigation that had to occur; sometimes it was just because I had to fight with my own caucus to get them through. But they did get through.

The third point I wish to make is that an illusion has been created out of thin air that the Republicans left an undue number of nominees pending in a committee without votes at the end of the Clinton administration. Again, more Arthur Andersen accountings. Get ready for the truth.

There were 41 such nominees—I repeat, 41—which is 13 fewer than the 54 whom Democrats who controlled the Senate in 1992 left at the end of the first Bush administration. That is 41 under my chairmanship and 54 under the Democrat-controlled Senate in 1992, at the end of the first Bush administration.

My fourth point is, as you can see from this particular chart, I believe President Bush is being treated very unfairly. I will try to point this out.

President Reagan and the first President Bush got all of their first 11 circuit court nominees confirmed. All 11 were confirmed well within one year of their nominations. This is a stark contrast to today: 8 of current President Bush's first 11 nominations are still pending without a hearing, despite being here for a whole year at the end of yesterday. All have their ABA ratings. All are rated either well qualified, the highest rating possible, or qualified, a high rating, and all but one have their home State Senators' support, and that one is a North Carolina nominee for whom Senator EDWARDS has yet to return a blue slip.

I might add that the North Carolina nominee was nominated in the first

Bush administration. So he has been pending for over 10 years. John Roberts—who is considered one of the two or three greatest appellate lawyers in this country by everybody who knows intimately what he has done, both Democrats and Republicans—has been sitting here for 1 solid year.

My fifth point, shown in this chart, is that President Clinton had the privilege of seeing 97 of his first judicial nominees confirmed. The average time from nomination to confirmation was 93 days. Such a record was par for the course until the current Senate leadership took over last year. President Reagan got 97 of his first 100 judicial nominations confirmed in an average of 36 days. Again, he had 6 years of a Republican Senate to help him. President H.W. Bush saw 95 of his first 100 confirmed in an average of 78 days, and for most of his tenure he had a Democrat-controlled Senate.

The ground rules obviously have been changed as the extreme interest groups have reportedly instructed my Democratic colleagues. As we sit here today, the Senate has confirmed only 52—only 52—not the 97 President Clinton got, but only 52 of President Bush's first 100 nominees, and the average number of days to confirm these nominees is over 150 and increasing every day.

The reason I mention these five points is that there are some people who read the title of what we are doing today, and they hear what my colleagues have to say, and ignore the fact that, of President Bush's first 11 nominations, only 3 of them have gotten through. Those 11 were made on May 9 of last year. There is no historical justification for blocking President Bush's choices for the Federal judiciary. First, I do not want to accuse my colleagues on the other side of doing that.

Second, there simply is no historic justification for blocking President Bush's first 11 or first 100 judicial nominees. Nor is there any truth to the myth that the vacancies we have today were caused by the Republican Senate. They were caused by retiring judges. In other words, anything conjured up from the past and dressed up as a reason to thwart the requests of President Bush should be dismissed.

Now I want to switch gears a little bit and say something I consider to be personal, even though it has had—and still could have—a lot of bearing on this process. Back before I became chairman of the Judiciary Committee in 1995, I was personally affected by several events that occurred under the auspices of advise and consent. These events included the mistreatment of nominees including Sessions, Bork, Thomas, Ryskamp, Rehnquist, and others. In fact, even Justice Souter was not treated really well when he came before the committee, and the main reason was they thought he might be anti-abortion.

I saw how politics can affect the human spirit both in success and defeat. I saw how baseless allegations can take on a life of their own and how they can take away the life from their victims.

By the time I became chairman, I was determined to change the process that had gotten so vicious. I worked to restore dignity back to the nominations process both in the Committee and the Senate. I championed the cause of President Clinton's Supreme Court nominee Ruth Bader Ginsburg, even though she was criticized by many as a liberal activist and was a former general counsel of the ACLU, nothing that bothered me. I used my influence to quiet her detractors. I helped secure her vote of 96 to 3.

Under my chairmanship, I ended the practice of inviting witnesses to come into hearings to disparage the district court and circuit court nominees. In other words, I would not allow an outside group to come in. And there were plenty of them that wanted to. I dealt with the FBI background issues in private conference with Senators, never mentioning them in public hearings. Now that is a practice I am concerned has not been followed.

It is a matter of great concern because sometimes we do have to delay a hearing. We may have to put off some things because of further investigation, which may turn out be innocuous, or because of some serious charges that were raised, or because of something that has arisen that needs to be discussed. Anytime somebody indicates we have to put off a hearing because of an FBI report—that essentially comes down to telling everybody in the world. At the very least, it makes the public draw the conclusion that there must be something wrong with this nominee. Of course, in most cases there is not.

Now I told interest groups, even the ones with which I agree and whose work I like in other areas, that they were not welcome to come in and smear Clinton nominees. I refused to alter the 200-year tradition of deference to Presidents by shifting the burden onto nominees, and I informed the White House of problems that could, if made public, lead a nominee to a humiliating vote so that the nominee could withdraw rather than face that fate. These are the reasons we were able to confirm 377 Clinton nominees.

Anybody who thinks they were within the mainstream did not look at those nominees. We included some pretty contentious ones, such as the ones I have mentioned earlier in my remarks, and I only mentioned four because they were from the one circuit. I could mention many. If we had applied the same litmus tests as our colleagues are applying to President Bush's judges, very few of President Clinton's nominees would have gotten through.

I worked to get them confirmed. I stuck my neck out for them, and I still believe to this day I did the right thing, even though I am increasingly pessimistic that someone on the other side of the aisle will step up to the plate and reciprocate for any Bush nominees who might be in the same circumstance.

I urge and call upon the Democratic majority to show some leadership and put partisanship and the politics of personal destruction behind. Give fair hearings and confirmations of qualified nominees and keep the judiciary independent, as our forefathers intended. Keep the left-wing interest groups out of the nominations process. Do not let them smear our people.

I will introduce some of the nominees that have been held hostage in the Judiciary Committee this whole year. John Roberts, who is one of the most qualified and respected appellate lawyers in this country, has argued 37 cases before the Supreme Court. He just won a Supreme Court case 2 weeks ago for environmentalists. That was a historic property rights case. Miguel Estrada, who is a true American success story, arrived in this country from Honduras as a teenager, taught himself English, graduated with high honors from both Columbia and Harvard Law School, and has argued 15 cases before the U.S. Supreme Court—an exceptional Hispanic young man.

Professor Michael McConnell, from my State of Utah, one of the greatest legal minds of our generation, is supported by top liberal legal scholars Laurence Tribe of Harvard, Cass Sunstein of Chicago Law School, and many others. He is widely known to possess all the intelligence, temperament, and personal qualities that can make for an outstanding judge.

Jeffrey Sutton, a top legal advocate who graduated first in his class at the Ohio State College of Law, served as a law clerk to the U.S. Supreme Court.

There they are: John Roberts, Miguel Estrada, Michael McConnell, and Jeffrey Sutton on the top of this chart.

I will go a little bit further. Then there is Deborah Cook at the Sixth Circuit, who has overcome formidable obstacles in her personal life and legal career, including breaking a glass ceiling when she became the first female attorney in her law firm. She has served with distinction on the Ohio State Supreme Court.

Then there is Judge Dennis Shedd. He has a long and admirable record in public service. He was chief of staff of the Senate Judiciary Committee, and he is now a judge on the Federal district court. He already knows his way around the Fourth Circuit Court of Appeals where he has been nominated to serve because he has already been designated by that court to hear over 30 of their cases and write a number of opinions. I should also note that Judge Shedd has the bipartisan support of both home State Senators.

Then there is Priscilla Owen of Texas, who is a litigator with 17 years' experience and currently serving her 7th year as a justice on the Texas Supreme Court. She is only the second woman even to sit on that bench. She has been sitting, as have all these others, for over a year now.

Last but certainly not least, there is Judge Terrence Boyle, a judge with 14 years' experience, who is a thoughtful, fair, and nonpartisan jurist who has been waiting for a hearing for 11 years, ever since the first President Bush nominated him in 1991, and who has been designated to sit with the Fourth Circuit Court during 12 terms and has written more than 20 circuit court opinions. That is how much they have honored him. He was nominated, as I say, over 10 years ago and still has not had a hearing.

These are all superbly qualified, mainstream jurists who are committed to the principle that judges should follow the law and not make it up from the bench. They are also President Bush's selections. They enjoy bipartisan support. They are not ideologues. The Senate Democrats who are blocking them from having hearings should treat these nominees and the President who nominated them with fairness. I do not think the process is fair now and have to speak out.

It is time for this Senate to examine the real situation in the Judiciary Committee rather than to listen to the more inventive ways of spinning. We have lots of work to do. Let us put the statistics judo game behind us and get to work. We have been elected to do a job and let's do it instead of making up excuses for why we are not doing it.

If we look at these eight nominees, John Roberts, unanimously well qualified by the gold standard according to our colleagues on the other side, the American Bar Association; Miguel Estrada, unanimously well qualified by the American Bar Association; Michael McConnell, unanimously well qualified by the American Bar Association; Jeffrey Sutton, a majority qualified, a minority well qualified; Deborah Cook, unanimously qualified; Priscilla Owen, unanimously well qualified; Dennis Shedd, a majority of the ABA committee found him well qualified; Terrence Boyle, unanimously qualified. There is no reason why they should have sat there for 1 solid year.

I think the American people are disappointed; they want the Senate to help, not hinder, President Bush. I urge my friend across the aisle to focus on this situation and step up the pace of hearings and votes and do what is right for the country.

Having said that, I understand there are only four of the six judges pending on the floor that will be voted on today. Unfortunately, one of them who will not be voted on is a judge we recommended from Utah who is truly beloved out there and by many throughout the country. He is one of the finest law professors in the country. He came out of the committee with a vote of only four of our committee voting against him. Whenever members of the committee had judges, I did everything in my power to put them to the head of the line and to get them through. These two judges, Judge Paul Cassell, who is already approved by the committee, has been here for almost a year and will not get a vote today; and Judge Michael McConnell, who some say is probably one of the two or three greatest legal geniuses in the country, is still without a hearing—and I am ranking member.

This is bothering me to a large degree because I do not treat my colleagues on the other side the way they are treating our nominees. I believe it has to change. I will do everything in my power to change it. Should we get back in the majority, I will move to do a lot better job than has ever been done before and, hopefully, we can correct some of the ills that we have all complained about in the past.

We have a 100-person body and it is not easy sometimes to get people through. I have to say, in comparison, we treated President Clinton's nominees fairly. There are some exceptions—I have to admit; there always are—whether the Democrats or Republicans are in control of the committee. Look at the figures and facts. They were treated very fairly.

It is interesting to note how much my colleagues have changed their tune in the last year or so. Moments ago, my colleague criticized our President, President Bush, for using the phrase ''judicial vacancy crisis.'' My colleague called this ''confrontational.'' Yet in June of 1998, the Democrat leader of the Senate said that the ''vacancy crisis is the most serious problem.'' Has the phrase ''judicial crisis'' taken on a new connotation, or is this simply another example of the shoe being put on the other foot? I don't think we should be tit for tat in this body. Yes, we can always point to some nominees you wish could have gotten through, whether JOE BIDEN was chairman or whether ORRIN HATCH was chairman. I know we both worked very hard to get them through.

I am concerned. I don't think President Bush is being treated fairly. I don't think the courts are being treated fairly. I don't think litigants are being treated fairly when half of a circuit in the Sixth Circuit is without judges. That means the civil cases virtually cannot be heard because they have to go to the criminal cases first, and many of those cannot be heard.

Justice delayed is justice denied. That is happening all over our country. I believe we have to change that.

Madam President, I support the confirmation of Samuel ''Hardy'' Mays, Jr., to the United States District Court for the Western District of Tennessee.

I have had the pleasure of reviewing Mr. Mays' distinguished career, and I can say without hesitation that he will be an excellent addition to the Federal judiciary.

Mr. Mays graduated in 1961 from Amherst College and attended Yale Law School, where he served on the editorial board of the law journal. After receiving his Juris Doctorate, Mr. Mays began an over-20-year association with the law firm presently known as Baker, Donelson, Bearman & Caldwell. Mr. Mays became a partner in 1979. His law practice ranged from trial work—where he represented clients such as small, family-owned businesses in litigation matters—to banking and health care transactions.

In 1995 Mr. Mays entered government service as Tennessee Governor Sunquist's legal counsel. Here his responsibilities included reviewing all legislation requiring the Governor's approval; reviewing all clemency matters and extraditions; advising the Governor on matters of judicial administration; reviewing and recommending all judicial appointments; and supervising, on behalf of the Governor, all litigation to which the State of Tennessee was a party.

In 1997, recognizing Mr. Mays' hard work and legal talents, Governor Sunquist promoted him to Deputy to the Governor and Chief of Staff. As Chief of Staff, Mr. Mays became, in effect, the Chief Operating Officer of a State with approximately $19 billion in annual revenue. After leaving government service in 2000, he rejoined his old firm of Baker, Donelson.

No description of Mr. Mays' life would be complete without mentioning his active membership on numerous committees and boards, whose purpose is to enrich the lives of the people of Memphis.

Mr. Mays is eminently qualified to be a member of the Federal bench. I comment President Bush for another extraordinary judicial nominee, and I sincerely hope that the Senate will begin to deal with the growing judicial crisis that this Nation is facing.

Madam President, I support the nomination of Andrew Hanen to be U.S. District Judge for the Southern District of Texas.

It should be noted that in 1992 Mr. Hanen was nominated to the same position by the first President Bush, but, regrettably, he was not given a hearing by the Democratic Senate. Still, as was the case 10 years ago, I am confident he will serve with distinction on the Federal district court.

Following graduation from Baylor University School of Law, where he finished first in his class, Mr. Hanen clerked for a year with Chief Justice Joe Greenhill of the Texas Supreme Court. In 1979 Mr. Hanen joined the firm of Andrews & Kurth, handling medical malpractice defense cases, commercial litigation, products liability, and legal malpractice defense cases. In addition, he represented clients in cases in the areas of FELA, ERISA, lender liability, civil rights, and antitrust.

Following his unsuccessful nomination to the Federal bench in 1992, Mr. Hanen, along with two others, opened his own law firm, which is now composed of 17 employees. Mr. Hanen has represented clients in contract, patent litigation, toxic tort, mass tort, and personal injury matters.

Mr. Hanen is a leader in the Houston Volunteer Lawyers Program. While

serving as president of the Houston Bar Association, Mr. Hanen has led effort to raise funds for additional pro bono work. Mr. Hanen has also been active in promoting and instituting pro bono legal services for AIDS and HIV-affected individuals. He volunteers with Habitat for Humanity, ADR programs, and various nonprofit groups.

I am very proud of this nominee and I know he will make a great judge.

Madam President, I support the nomination of Leonard E. Davis to be United States District Judge for the Eastern District of Texas.

I have had the pleasure of reviewing Judge Davis' distinguished legal career, and I have concluded, as did President Bush, that he is a fine jurist who will add a great deal to the Federal bench in Texas.

Upon graduation from Baylor University School of Law, where he finished first in his class, Leonard Davis joined the Tyler, TX, law firm of Potter, Guinn, Minton & Roberts. He became a partner in 1979 and was managing partner from 1983 to 1990.

At the outset of his legal career, Judge Davis concentrated on insurance defense work. He also handled a diverse caseload including cases involving worker's compensation, section 1983, automobile accidents, deceptive trade practices, products liability, and malpractice. Later, as his practice developed, he focused primarily on commercial litigation. In addition, Judge Davis was appointed to defend several indigents in Federal and State criminal cases involving murder, aggravated assault, interstate transportation of stolen cattle, and tax evasion.

Judge Davis served on the Texas State Ethics Advisory Commission from 1983–88 and on the State Judicial Districts Board from 1988–92. Judge Davis was appointed by then-Governor George W. Bush as Chief Justice of the Twelfth Court of Appeals in Tyler, TX, where he has served since 2000.

I have every confidence that Judge Leonard E. Davis will serve with distinction on the Federal district court for the Eastern District of Texas.

Madam President, I rise in support of the confirmation of Judge Thomas Rose to the U.S. District Court for the Southern District of Ohio.

After reviewing Judge Rose's distinguished legal career, I can state without reservation that he is a man of integrity and honesty and will be a welcome addition to an already taxed judiciary.

Judge Rose graduated from Ohio University in 1970 with a Bachelors of Science in Education. He then went on to receive this Juris Doctorate from the University of Cincinnati College of Law in 1973.

After graduating law school, Judge Rose worked as a Greene County Assistant Prosecutor while maintaining a private practice. As a prosecutor, his responsibilities included addressing a wide range of issues from juvenile matters to capital murder cases. During this period, my colleague and good friend, Senator DEWINE, was also a prosecutor for Greene County. Senator DEWINE discovered that one of his superiors had bugged his office. Senator DEWINE took the only honorable action available and resigned in protest. Judge Rose also resigned because he felt the office's integrity had been violated. Clearly, this shows that Judge Rose, who was not involved in this incident in any manner, is a man who will put the interests of justice and fairness above his own personal gain.

Judge Rose is also a man deeply devoted to his community. After leaving the prosecutor's office, he became Chief Juvenile Court Referee for the Greene County Court of Common Pleas. In this position, he was responsible for working with delinquent, neglected and abused children. Currently, he is a Board Member of the Xenia Rotary Club and a member of three local Chambers of Commerce.

Later, under a new Greene County Prosecutor, Judge Rose became Chief Assistant Prosecutor in Charge of the Civil Division. In 1991, he rose to the bench as a Judge for the Greene County Common Pleas Court, General Division. Currently, Judge Rose handles approximately 400 civil and 400 felony criminal cases annually.

Judge Rose's nomination is yet another example of the quality of judicial nominations that President Bush is making. I believe that we should all follow the example set by the President when he said that it is time to provide fair hearings and prompt votes to all nominees, no matter who controls the Senate or the White House. This is what I tried to do when I was chairman, and it is a standard to which we should now aspire.

Mr. EDWARDS. Madam President, I wanted to say just a few words on this subject of judicial nominations.

Not everyone realizes how important the Federal courts are. They are extraordinarily important. Once judges are confirmed by the Senate, they hold lifetime appointments. Although the focus tends to be on the Supreme Court, the reality is that well over 99 percent of all cases never reach that court. These cases are decided by district judges and circuit judges who most Americans have never heard of. The final decisions made by these judges resolve the most fundamental questions about our civil rights and individual rights. Every single day, these judges make decisions that literally make and break people's lives.

So it is critical that we examine nominations to the Federal bench very carefully, particularly when those nominations raise serious questions.

Of course, being deliberate does not mean being dilatory. But Madam President, the truth is that the Senate is confirming large numbers of nominees. As of today, the Senate will have confirmed 56 judges, including 9 to the courts of appeals. That is a faster pace than in the last 6 years of the Clinton administration. In those six years, the number of vacancies in the Federal appeals courts more than doubled, from 16 to 33. Today, that vacancy level is down from 33 to 29.

To sum up, I believe that when it comes to judges, we are doing our job carefully, and we are doing our job well.

Mr. THOMPSON. Madam President, I am very pleased that the Senate is considering the nomination of Samuel Mays, whom everybody in Tennessee knows as ''Hardy,'' to be a U.S. District Judge for the Western District of Tennessee.

I am grateful to Chairman LEAHY and the Judiciary Committee and its staff for moving Mr. Mays's nomination so quickly. The need is quite urgent. The Western District of Tennessee typically has four judges assigned to hear cases in Memphis, along with a fifth who hears cases in Jackson. Only two of those four seats are currently filled with judges hearing cases, and the nomination of one of those two judges to the Court of Appeals is now pending before the Senate. A third seat, the one to which Mr. Mays has been nominated, is vacant. The fourth judge is currently on disability leave. So moving Mr. Mays's nomination so promptly is imperative for litigants with cases pending in the Western District.

Hardy Mays is very well known to the bar of the Western District of Tennessee. He was born and raised in Memphis. He graduated from Amherst College in 1970 and in 1973 from Yale Law School, where he served as an editor of the law journal.

He returned home to Memphis, where he joined the law firm that is today known as Baker, Donelson, Bearman & Caldwell, at which he practiced law for over 20 years, and which was also the firm of our former colleague, Senator Howard Baker, now U.S. Ambassador to Japan. Although Mr. Mays started his practice as a tax and banking lawyer, he soon shifted his focus to litigation. He represented clients before the local, State, and Federal courts in west Tennessee in a wide variety of civil cases. While his practice continued to evolve into one primarily concentrated on banking law issues, Mr. Mays continued to try cases until 1985. During his time as a litigator, Mr. Mays tried over 25 cases to judgment. Many of these cases were in Federal court. His peers recognized his standing at the bar and selected him as a member of the board of directors of the Memphis Bar Association, a position he held from 1985 to 1987.

In 1987, he became managing partner of his firm, a move that forced him to give up litigation. He helped turn the firm into a regional law firm, opening offices in Nashville and Chattanooga. He gave up his position as managing partner of the firm in 1988 and returned to the full-time practice of law. By then, his practice had again evolved into one focused on health law and related practice areas.

In 1995, Mr. Mays joined the administration of Governor Don Sundquist as his legal counsel. Two years later, he became the Governor's chief of staff. In these positions, he served the people of Tennessee ably and tirelessly. He was highly regarded during his tenure with Governor Sundquist.

In 2000, he returned to his former law firm, where he has continued to practice law focused on representing health care providers.

Mr. Mays is highly regarded by the bar for his intellect, legal ability, fairness, and his unfailing good humor. I am confident that he has the ideal temperament to serve in the stressful position of a trial judge. Mr. Mays enjoys broad, bipartisan support. I know the Judiciary Committee has heard from a number of prominent Democrats, including Memphis Mayor Willie Herenton; President Clinton's U.S. Attorney in Memphis, Veronica Coleman-Davis; former Tennessee Governor Ned McWherter; and our former colleague, Senator Harlan Matthews, in support of the nomination of Mr. Mays.

In addition to his record of professional accomplishments, no recitation of Mr. Mays's career would be complete without reference to his extraordinary commitment to his community. While I will not take the time to detail the full scope of his community involvement, including his significant political activities, I do want to focus on one aspect of his involvement with his neighbors: the arts in Memphis would be far poorer without his contributions. He serves or has served as a director of the Memphis Orchestra, Opera Memphis, the Memphis Ballet, the Playhouse on the Square, the Decorative Arts Trust, and the Memphis Brooks Museum, and the Memphis Botanic Garden.

Hardy Mays is an excellent choice to serve as Federal district judge in Memphis. I appreciate the President's decision to nominate him, and I am grateful to the Judiciary Committee for considering his nomination so promptly. I urge my colleagues to support his nomination.

Ms. CANTWELL. Madam President, the Senate and the Judiciary Committee have been under Democratic leadership for 10 months. During that 10 months, Chairman LEAHY and the Judiciary Committee staff have worked overtime to establish a steady process to fill judicial vacancies. In the 10 months, each one of my Democratic colleagues has taken time from their busy schedules to chair multiple nominations hearings.

Hearings on nominees began less than a week after the Senate reorganized, and have continued on a monthly, or twice monthly basis, right up to this afternoon. As you have heard repeatedly today, in 10 months we have confirmed 52 judges, and have 4 more awaiting confirmation today. We have held hearings on 13 Court of Appeals nominees. This afternoon, I will convene a hearing on four additional nominees including one for the Ninth Circuit Court of Appeals. Our record on confirmations is good.

So it has been a continual surprise to me that my colleagues on the other side of the aisle have complained day after day, that the Senate was not confirming judges. This is particularly surprising as those doing the complaining sit beside me week after week as we continue to hold hearings and vote these nominees out of the Committee.

The problem is not that the Senate has not been confirming judges. Any reasonable examination of the record makes clear that the Committee is working hard to confirm more judges than in past years. We have confirmed many strong Republican judges who are impartial, ethical, and who bring to their decision making an open mindedness to the arguments presented. My own experience in reviewing the record of nominees who have come before me makes clear that judges who are qualified, moderate candidates, who are held in high esteem by lawyers in their community, and who have a record of fair-minded decision making will be promptly confirmed.

The problem is that a few controversial nominees have not yet received hearings. President Bush last year nominated individuals to the Circuit Court of Appeals who are among the most conservative the Senate has ever considered. Many of these nominees have long records of decisions and writings that are far outside mainstream thinking. They have records that call into question their commitment to upholding precedent, and to respecting individual rights. When questions like these are raised about a nominee, the Committee must undertake a thorough examination of the nominee, and that takes time.

The Supreme Court hears fewer than 100 cases per year and circuit court judges make the final decisions in hundreds of cases a year that set precedent for thousands of additional cases. Senate confirmation is the only check upon federal judges appointed for life. I take seriously the responsibility to carefully review these nominees and to reflect upon the power they will hold to affect the lives of ordinary Americans in the workplace, the voting booth, and in the privacy of their home.

When the Senate confirms nominees to fill the remaining existing vacancies, as I am confident that it will, 11 of the 13 Circuit Courts will be dominated by conservative jurists. These same courts have increasingly issued rulings that have curtailed the power of Congress to enact laws to protect women from domestic violence, prevent discrimination based on disabilities, and to protect the environment. Rulings have increasingly limited the ability and the opportunity for women to exercise their right to reproductive freedom; limited the opportunity for education and advancement by curtailing programs promoting racial and ethnic diversity in our schools and workplaces; and overturned laws protecting workers. Balance in each of the branches of our government is a key precept of our democracy, and balance in the Federal judiciary is, in my opinion, crucial to ensure that the American public maintains its unquestioned respect for and deference to the rulings of our Federal judiciary.

Americans in huge numbers favor reproductive choice, and the right to work in a safe workplace free from injury and regardless of physical disability. They believe in the need for government to take steps to protect our environment for future generations, and to protect consumers from unfair and deceitful business practices. These are the values that are placed in jeopardy by extreme nominees. It is the responsibility of the Senate and of the members of the Judiciary Committee to ensure that the people we seat on the Federal bench share the same respect for these rights.

The reality is appointments to the judiciary have become more politicized over the past 20 years. If the Senate is truly interested in filling all the outstanding vacancies as quickly as possible, we must work together to find nominees who can help to correct the current imbalance on the courts. We need to see more cooperation and consultation between the White House and the members of the Senate, and a willingness to compromise on nominees who do not present a threat to values and rights that mainstream Americans accept and welcome. We have an amazing pool of talent in our legal community, and it would be a simple matter to nominate more mainstream nominees.

It is my hope that as we continue to work to fill existing vacancies, that it will become more possible to work together to find candidates for nomination who unite, not who seek to divide.

Mr. VOINOVICH. Madam President, today, May 9, 2002, marks one year to the date that I was at the White House when President Bush announced the nominations of Deborah Cook and Jeffrey Sutton for the Sixth Circuit Court of Appeals. However, one year later, no action has been taken on these Ohioans, as well as five other nominees to the Sixth Circuit. In fact, the entire judicial nominee process has been egregiously delayed over this past year.

There are currently over 96 vacancies in the Federal courts, enough that the Chief Justice of the Supreme Court, William Rehnquist, referred to the vacancy crisis is ''alarming.'' It certainly is alarming to note that these vacancies exist despite the fact that President Bush has nominated nearly 100 judges in his first year of office, more judges than any President in history. At the same point in his administration, President Clinton had nominated only 74 judges. In addition, former President Bush had nominated 46 and President Reagan had nominated 59.

Despite this overwhelming number of nominees, as of April 12, 2002, the Senate has only confirmed 42 of President Bush's 98 nominees. More egregious is the fact that only 7 of President Bush's 29 nominees to the circuit courts have been confirmed. No circuit has felt this delay more powerfully than the Sixth.

Since 1998, the number of vacant judgeship months in the Sixth Circuit has increased from 13.7 to 60.9 and is currently the highest in the Nation. The median time from the filing of a notice of appeal to disposition of the case in the Sixth Circuit was 15.3 months in 2001, well above the 10.9 months national average, and second in the Nation only to the Ninth Circuit.

Clearly the Sixth Circuit is in crisis and the reason is the inaction of the Senate Judiciary Committee.

When I talk to Ohio practitioners, I hear many complaints about the overuse of visiting judges throughout the Sixth Circuit. One lawyer told me that one of the visiting judges on his panel was from as far away as the Western District of Louisiana. In fact, the Sixth Circuit has the highest number of visiting judges providing service: 59 visiting judges participated in the disposition of 1,626 cases for the 12-month period ending September 30, 2001.

It is time to put a stop to this logjam of Sixth Circuit nominees and allow our overburdened appeals courts to operate free of partisan wrangling. In particular, it is time to give Justice Deborah Cook and Jeffrey Sutton a hearing, and allow their nominations to be considered by the full Senate.

In all candor, I can not think of two individuals more qualified or better prepared to assume the solemn responsibilities of the Sixth Circuit bench than Deborah Cook and Jeffrey Sutton.

I have had the privilege of knowing Deborah Cook for over 25 years. Throughout, I have found her to be a woman of exceptional character and integrity. Her professional demeanor and thorough knowledge combine to make her truly an excellent candidate for an appointment to the Sixth Circuit. Deborah Cook has served with distinction on Ohio's Supreme Court since her election in 1994 and reelection in 2000. My only regret is that with her confirmation to the Sixth Circuit, we will lose her on the Supreme Court of Ohio.

With a combined 10 years of appellate judicial experience on the Ohio Court of Appeals and the Ohio Supreme Court, Deborah Cook uniquely combines keen intellect, legal scholarship and consistency in her opinions. She is a strong advocate of applying the law without fear or favor and not making policy towards a particular constituency. Deborah Cook is a committed individual and a trusted leader, and it is my pleasure to give her my highest recommendation.

I am also very pleased to speak on behalf of Jeffrey Sutton, a man of unquestioned intelligence and qualifications, with vast experience in commercial, constitutional and appellate litigation. Jeffrey Sutton graduated first in his law school class, followed by two clerkships with the United States Supreme Court, as well as the Second Circuit. As he was the State Solicitor of Ohio when I was Governor, I worked with him extensively when he represented the Governor's office, and in my judgment, he never exhibited any predisposition with regard to an issue. He has contributed so much and his compassion for people and the law is so evident. In my opinion, Jeffrey Sutton is exactly what the federal bench needs: a fresh, objective perspective.

Jeffrey Sutton's qualifications for this judgeship are best evidenced through his experience. He has argued nine cases before the United States Supreme Court, including Hohn v. United States, in which the Court invited Mr. Sutton's participation, and Becker v. Montgomery, in which he represented a prisoner's interests pro bono. He has also argued twelve cases in the Ohio Supreme Court and six cases in the Sixth Circuit. While his participation in controversial cases has, in some instances, led to a clouding of his qualifications and accomplishments, what his detractors fail to mention is how he argued pro bono on behalf of a blind student seeking admission to medical school or how he filed an amicus curiae brief with the Ohio Supreme Court in support of Ohio's Hate Crimes law on behalf of the Anti-Defamation League, the NAACP and the Ohio Human Rights Bar Association. Jeffrey Sutton should not be criticized on assumptions that past legal positions reflect his personal views. Instead, he should be lauded for always zealously advocating his client's interests, no matter the issue. I know Jeff. He is a man of exceptional character and compassion. For these and many other reasons, Jeffrey Sutton will be an unquestioned asset to the Federal Bench.

As you may know, the Sixth Circuit is in desperate need of judicial appointments. Fourteen judicial vacancies now exist, one of which has been vacant since 1995. Furthermore, the Administrative Office of the U.S. Courts has declared five of these vacancies to be judicial emergencies within the U.S. federal court system.

Given the crisis in the Sixth Circuit and the exemplary records of Justice Cook and Jeffrey Sutton, I respectfully urge the Judiciary Committee to hold hearings on their nominations as soon as possible, and expeditiously move them to the floor of the Senate.

Mr. GRASSLEY. Madam President, I rise today to speak in support of President Bush's judicial nominees. President Bush says that we need to move these nominees swiftly and fairly. He wants our support for his nominees. I agree. The Senate needs to act to fill these vacancies and ensure that the Federal courts are operating at full strength.

Right now, President Bush has sent a number of extremely qualified men and women to the Senate for consideration to the Federal bench. But unfortunately, many of these outstanding individuals are still waiting for a hearing by the Senate Judiciary Committee, I believe 47 nominees are still pending. We need to move these judicial nominations quickly, because they are all good men and women.

I want to talk about a few facts and figures. We've heard a lot of numbers being thrown around by both the Democrats and the Republicans about who delayed who the longest, who denied hearings to whom, and on and on, so we are left in a numbers daze. I get dizzy from all the numbers. But this what I think is the bottom line. When President Bush Sr., left office, he had 54 nominees pending with a Democratic Senate. The vacancy rate was 11.5 percent. When President Clinton left office, he had 41 nominees pending with a Republican Senate. The vacancy rate was 7.9 percent. So the way I see it, Senate Republicans gave the Democratic President a better deal. The other bottom line is that a year, 365 days, after President Bush nominated his first 11 circuit court nominees, only 3 have been confirmed. By contrast, each of the 3 previous Presidents enjoyed a 100 percent confirmation rate on their first 11 circuit nominees, and they were all confirmed within a year. The way I see it, President Bush is getting the short end of the stick with his nominees.

I'd like to talk about some of President Bush's nominees, specifically the 8 nominees of the 11 original circuit court nominees sent up last May who are still pending without action. Today a full year has gone by, 365 days, with only 3 of President Bush's first 11 nominees having seen any action at all. And of those 3, I understand 2 were judges previously nominated by President Clinton. The Senate needs to do better than that. These individuals of exceptional experience, intellect and character deserve to be treated fairly and considered by the Senate promptly.

Let me say a few words about each of these nominees. I know that some of my colleagues may have already given many details about these individuals, but I think that it is important that Americans see what quality individuals President Bush has sent up to the Senate. These individuals have all excelled in their legal careers and I'm sure, if confirmed, they will all make excellent judges.

Judge Terrence Boyle is President Bush's nominee for the Fourth Circuit Court of Appeals. He is currently the Chief Judge of the U.S. District Court for the Eastern District of North Carolina, appointed by President Reagan in 1984. He has served in this post with distinction. He was nominated to the Fourth Circuit in 1991 by President Bush Sr., but he did not receive a hearing from the Democrat-controlled Judiciary Committee.

Justice Deborah Cook is President Bush's nominee to the Sixth Circuit

Court of Appeals. After graduation from law school, Justice Cook became the first female attorney hired at the oldest law firm in Akron, OH, and just 5 years later, she was named a partner. She then served on the Ohio Court of Appeals for 4 years, and in 1994 she became a justice on the Ohio Supreme Court. Her pro bono work is laudable: Judge Cook is a founder and trustee of a mentored college scholarship program in Akron, and I understand she and her husband personally fund efforts to help inner-city children go to college.

Miguel Estrada is one of President Bush's nominees to the D.C. Circuit Court of Appeals. He has an incredible story, having immigrated to the United States when he was young without even speaking English, to then graduate with honors from Columbia College and Harvard Law School. He clerked for the Second Circuit and the U.S. Supreme Court, then served as an Assistant U.S. Attorney in the Southern District of New York, where he became Deputy Chief of the Appellate Section in the Office. Mr. Estrada acted as Assistant to the Solicitor General for 5 years in both the Bush and Clinton administrations. If he is confirmed, Mr. Estrada would be the first Hispanic judge on the D.C. Circuit Court of Appeals.

Michael McConnell is President Bush's nominee to the Tenth Circuit Court of Appeals. He graduated from the University of Chicago Law School and then clerked for Judge Skelly Wright on the D.C. Circuit, and Justice William J. Brennan on the U.S. Supreme Court. Professor McConnell was a tenured professor at the University of Chicago Law School for more than a decade before accepting the Presidential Professorship at the University of Utah College of Law in 1997. He has earned the reputation of being one of the top constitutional scholars in the country.

Justice Priscilla Owen is President Bush's nominee to the Fifth Circuit Court of Appeals. Justice Owen spent 17 years as a litigator with a top Houston law firm. Currently, Ms. Owen is serving her 7th year as Associate Justice on the Texas Supreme Court, she is only the second woman ever to sit on that bench. She has great professional credentials, and has demonstrated a strong commitment to her community.

John Roberts is President Bush's other outstanding nominee to the D.C. Circuit Court of Appeals. He is one of the most qualified and respected appellate lawyers in the country. Mr. Roberts has had a distinguished record in private practice, and he has performed a significant amount of pro bono legal service. He also served as Deputy Solicitor General of the United States. Mr. Roberts' background in public office and private office are outstanding.

Judge Dennis Shedd is President Bush's nominee to the Fourth Circuit Court of Appeals. He has a long and admirable record of public service, both in the legislature and in the Federal courts, as well as in private practice and academia. Judge Shedd worked as the Chief Counsel and Staff Director for the Senate Judiciary Committee under then-Chairman STROM THURMOND. He was appointed a district court judge for the District of South Carolina in 1990, where he has served with distinction.

Jeffrey Sutton is President Bush's nominee to the Sixth Circuit Court of Appeals. Mr. Sutton clerked for Justices Scalia and Powell on the U.S. Supreme Court, then spent three distinguished years as Solicitor for the State of Ohio. Since that time, Jeffrey Sutton has worked in private practice and served as an adjunct professor of law at the Ohio State University College of Law.

These eight outstanding nominees are still waiting for a hearing, even though they are some of the most respected judges and lawyers and professors in the country. They have excellent qualifications, are of high moral character, and will serve our country well. They all have ratings of ''well qualified'' or ''qualified'' by the American Bar Association, the so-called ''gold standard'' by the Democrats on the Judiciary Committee. It's clear that the Senate Judiciary Committee needs to do its job and schedule them for a hearing and markup.

Let's give these good men and women what they deserve, to be treated with respect. They need a prompt hearing and markup. They have waited too long. The Senate has to act. Like the President said, the American people deserve better.

Mr. FRIST. Madam President, I rise today to thank my colleagues for the confirmation of Samuel Hardwicke Mays, Jr., of Memphis TN, as U.S. District Judge for the Western District of Tennessee. I am also grateful to President Bush for his nomination of an individual who I know will act with fairness to all in a way which will make all of us proud.

Hardy Mays is a Memphis institution. No one lives life more to the fullest than Hardy whose passion for the arts, a good book, the law and public service is known to all.

As have so many others, I first sought his counsel when I decided to run for the United States Senate. Since then, I have turned to Hardy for advice on a variety of occasions, and I value the thoughtful, balanced approach he can bring to any issue. And I am proud to call him my friend.

More importantly, he is an outstanding lawyer with a keen intellect. He is fair and impartial, and has enormous compassion for his fellow man. Hardy has demonstrated, both in his distinguished legal career with the Baker, Donelson firm in Memphis, and his life in public service as Legal Counsel and Chief of Staff to Governor Don Sundquist, his unique ability to hear all sides of an issue, to work with people from all walks of life, and to find equitable solutions to virtually any challenge. His personal and professional integrity are above reproach, and his even temperament is ideally suited for the federal bench.

Many outstanding Tennesseans have added their support to Hardy's nomination. They most often have mentioned to me his brilliant mind, sense of fair play and lack of personal bias, good wit, and respect for other's views and opinions.

Thomas Jefferson wrote in 1776 that our judges ''should always be men of learning and experience in the laws, of exemplary morals, great patience, calmness and attention.'' Samuel Hardwicke Mays, Jr., certainly fits President Jefferson's description. He will serve our country with distinction, and his talent, experience and energy will be an asset to our Federal judicial system.

I ask unanimous consent after Senator FEINGOLD speaks that Senator HUTCHINSON be permitted to speak for up to 5 minutes.

Mr. LEAHY. Reserving the right to object, does the Senator have the time? How much time is remaining on both sides? I don't want to object, but I know the Republican and Democrat leader have 11:35 for the vote.

The PRESIDING OFFICER. The Senator from Utah has 5 minutes 41 seconds.

Mr. LEAHY. OK.

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD: Madam President, today the Senate is going to confirm four more of President Bush's nominees to the Federal bench. While there is no controversy about these particular nominees, there has been much debate here on the floor about the pace of confirmations. And today, because this is the anniversary of President Bush's announcement of his first batch of judicial nominations, we have been told to expect a series of events designed to criticize the majority leader and the chairman of the Judiciary Committee for their conduct of the confirmation process and to pressure them to move this process along faster.

I am pleased to join my colleagues on the floor this morning to make a few points about this.

First, though I am sure the complaints will never stop, on the basis of the numbers alone, it is awfully hard to find fault with the pace of judicial confirmations. Since the Democrats took control of the Senate last June, we have confirmed 52 judges, not including the four whom we will vote on today, which will bring the total to 56. In under a year, that is more judges than were confirmed in four out of the six years of Republican control of the Senate under President Clinton.

Judiciary Committee Chairman PATRICK LEAHY has vowed not to treat President Bush's nominees as badly as our predecessors treated President

Clinton's nominees. I believe he is fulfilling that pledge, but frankly, he doesn't have to work all that hard to do that.

For example, our friends on the Republican side are complaining that some of President Bush's nominees from last May 9 have not yet been confirmed. On today's anniversary of those nominations, I'm sure we'll hear a lot about that. So let's just put that in perspective.

Let's assume for the sake of argument that these individuals have actually waited 365 days, a full year. We all know that at this time, that's not really accurate. First, Democrats took control of the Senate in June 2001. Our committee was not organized so that nominations hearings could be held until July 10, 2001. So it's really been only 10 months that we have been in a position to confirm any of the May 9 nominees.

Second, and just as significantly, under this administration, the American Bar Association can't start its review of a nomination until after the nomination is formally announced. During the Clinton administration, as under all previous administrations, Republican and Democrat, dating back to President Eisenhower, the ABA conducted its reviews of nominations before they were sent to the Senate. President Bush's unfortunate decision to change the way the White House handles the ABA review has added 30–60 days to the process as compared to prior years. That has to be factored into any claims. They are the result of the President's own choice of cutting the ABA out of the process.

Assume for the sake of argument that all these nominees have been waiting 365 days to be considered by the Senate. That is still 140 days shy of the 505 days that Richard Lazarra waited between his nomination by President Clinton and his confirmation by the Senate. And Judge Lazarra, now serving on the district court of Florida, didn't wait the longest. No, the period between his nomination and confirmation is only the 15th longest of the Clinton appointed judges. So when nominees of President Bush have been waiting a year, however that is calculated, they won't even crack the top 15 of the Clinton judges who waited the longest to be confirmed.

Actually, the longest wait during the Clinton administration was endured by Judge Richard Paez, now on the Ninth Circuit—1,520 days—over four years. That's in another league altogether from the delay, if you can call it that at this point, on some of President Bush's May 9 nominees. Nine Clinton judges waited more than 2 years before they were confirmed. If all of the May 9 judges still awaiting confirmation are still pending in the committee on May 9, 2003, then maybe we should talk about a delay. I am absolutely certain that will not be the case.

Now so far, I have been talking about judges who were ultimately confirmed. But we all know that not all of President Clinton's nominees were confirmed. Far from it. In fact, 38 judicial nominees never even got a hearing in the last Congress, including 15 court of appeals nominees. Three other nominees received hearings but never made it out of committee. The nominations of eight court of appeals nominees who never got a hearing and one who got a hearing but no committee vote, were pending for more than a year at the end of the 106th Congress. In all, more than half of President Clinton's nominees to the circuit courts in 1999 and 2000 never received a hearing.

Those who are concerned about circuit court vacancies, if they are being honest, must lay the problem directly at the feet of the majority in the Senate during President Clinton's last term. Many of those who are now loudly criticizing Chairman LEAHY refused to recognize the results of the 1996 election and dragged their feet for 4 years on judicial nominations. Some of the vacancies that President Bush is now trying to fill actually date back to 1996 or even 1994.

So what are we to do about this? One alternative is to simply rubber stamp the President's nominees. That is what some would have us do. I, for one, am thankful that that is not the approach of Chairman LEAHY or Majority Leader DASHCLE. We have a solemn constitutional obligation to advise and consent on nominations to these positions on the bench that carry with them a lifetime term. We must closely scrutinize the records of the nominees to these positions. It is our duty as Senators.

That duty is enhanced by the history I have just discussed. If we confirm the President's nominees without close scrutiny, we would simply be rewarding the obstructionism that the President's party engaged in over the last six years by allowing him to fill with his choices seats that his party held open for years, even when qualified nominees were advanced by President Clinton.

The most important part of the scrutiny we must do is to look at the records of these nominees. Many of them are already judges, at the State level or on a lower court. There is nothing wrong with examining their work product; indeed, that is the best indicator of how they will perform in the positions to which they have been nominated.

Some have complained that it is improper for the committee to ask to see copies of the unpublished opinions of judges nominated for the Circuit Court who are currently serving as District judges. I disagree. Let me be clear that we have not, as the Wall Street Journal editorial page recently stated, asked judges to go back and write ruling in cases where they have ruled orally from the bench. That is laughable. No, we simply asked for the judge's work product—the judge's written rulings. Unpublished opinions are binding on the parties in the case. They are the law. They are the judge's decisions. And we who are charged with evaluating the fitness of a sitting judge for a higher court have every right to examine those decisions—before making our decision.

I commend Chairman LEAHY on his work on nominations thus far. Fifty-six confirmations in less than a year as chairman is an admirable record. I am sure he won't keep any nominee waiting for 4 years before getting a confirmation vote. I am sure we won't finish this Congress having held hearings for fewer than half of the President's circuit court nominees. Most of all, I'm sure he will continue to treat this confirmation process with the dignity and respect and care it deserves. The courts, our system of justice, and the American people deserve no less.

I reserve the remainder of our time and yield the floor.

Mr. HATCH. I yield time to the distinguished Senator from Texas.

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I have been listening to the debate today. I certainly want to say I have a very good friend who is a nominee for the Fifth Circuit, who was nominated 1 year ago today, Priscilla Owen, who I hope will get a fair hearing because she is one of the most qualified people who has ever been nominated for the Fifth Circuit.

But I want to use my time this morning to give the due accolades to two judges on whom we will vote who are district judges. The circuit court judges are the ones about whom everyone has been talking and about whom people are very concerned. But we have two very qualified district judges who are going to be confirmed today. I want to speak for them.

The first nominee is Andy Hanen. Andy Hanen was nominated in June of 2001 to serve as Federal judge for the Southern District of Texas. He was also nominated for this judgeship 10 years ago by former President Bush. His nomination expired at the end of the congressional session and was not renewed by President Clinton.

Andy is a 1975 cum laude graduate of Denison University in Ohio, where he studied economics and political science. In 1978 he earned his law degree from Baylor University School of Law. He ranked first in his class and was president of the Student Bar Association and a member of the Baylor Law Review.

As a founding partner of the Houston law firm Hanen, Alexander, Johnson & Spalding, he has gained extensive civil trial experience, half of which was in Federal court. He went on to win a number of accolades, including Outstanding Young Lawyer of Texas, awarded by the State bar. He was elected president of the Houston Bar Association in 1998 and is currently a director of the State Bar of Texas. He has distinguished himself throughout his

career through civic and volunteer committees. He is an active member of the community and contributes his time to charities such as Habitat for Humanity, Sunshine Kids, and the Red Cross.

The Southern District of Texas is one of those that are in dire need of all the judicial vacancies being filled. I am very pleased to support Andy Hanen.

Leonard Davis has been nominated to serve on the Eastern District of Texas. He is a judge on the Circuit Court of Appeals for Texas, with an outstanding record. He, too, was nominated by former President Bush, but the nomination expired and was not renewed by President Clinton.

He earned a mathematics degree from UT Arlington and a master's degree in management from Texas Christian University. He earned his law degree from Baylor University School of Law, where he graduated first in his class. He went on to practice civil and criminal law for 23 years and handled hundreds of cases in State and Federal courts. He was appointed to his current position as Chief Justice of the 12th Circuit Court of Appeals of the State of Texas by then-President George W. Bush and has enjoyed strong bipartisan support and no opposition to his reelection in November of 2000.

He has served on numerous boards and commissions, including the State Ethics Advisory Commission, the State Bar of Texas's Legal Publications Committee, and the American Heart Association's Board of Directors.

Judge Leonard Davis is a long-time friend of mine. I believe he, too, will serve our country well.

I urge my colleagues to support both of these Texas nominees for district court benches—Andy Hanen and Leonard Davis.

Madam President, I also would like to say one more thing about Judge Priscilla Owen, a justice of the supreme court, and ask that she be considered for her Fifth Circuit nomination.

Every newspaper in Texas endorsed Justice Owen for her reelection bid in 2000 for the Supreme Court of Texas. On February 10 of this year, a Dallas Morning News editorial said:

> Justice Owen's lifelong record is one of accomplishment and integrity.

During her reelection campaign, the Houston Chronicle said, in a September 24, 2000, editorial:

> A conservative, Owen has the proper balance of judicial experience, solid legal scholarship, and real world know-how to continue to be an asset on the high court.

I do hope Justice Owen will receive due consideration for her nomination to the Fifth Circuit, and certainly I hope the Senate will act on these circuit court judge nominees. We have many vacancies that need to be filled. I urge the Senate to take action.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Vermont.

Mr. LEAHY. How much time is remaining?

The PRESIDING OFFICER. The Senator from Vermont has 8 minutes 20 seconds.

Mr. LEAHY. And the Senator from Utah?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. LEAHY. Madam President, the Senator from Ohio has asked for time to make a statement. I yield that time to him.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I rise today in support of the confirmation of Judge Thomas M. Rose, whom the President has nominated for the post of U.S. District Judge for the Southern District of Ohio, Western Division. I first met Tom Rose 29 years ago when we were both serving as assistant county prosecuting attorneys in Greene County, OH. I can tell you without reservation that he is a man of great integrity, honor, and intelligence. I do not know a more qualified, more experienced candidate for this judgeship.

Tom, who comes from Laurelville, OH, graduated from Ohio University in 1970, and received his law degree from the University of Cincinnati's College of Law in 1973. Also in 1973, he was appointed as Assistant County Prosecutor in Greene County; he became the first Magistrate in the Greene County Juvenile Court in 1976; and he became the Chief Assistant Prosecutor in charge of the Civil Division in 1978. In 1991, he became the Judge of the Court of Common Pleas in Greene County.

During these last 11 years on the Common Pleas Court bench, Ohio's highest trial court, Judge Rose has presided over a wide range of cases from criminal cases to civil cases to administrative appeals. He has faced a tremendous volume of cases, many of which have been of unprecedented complexity. For example, Judge Rose recently presided over Ohio's first pro se murder case in which the defendant could have received the maximum sentence of death.

In addition, he has heard hundreds of the kinds of civil cases and administrative appeals that dominate a common pleas docket, tax appeals, annexation questions, school districting disputes, and insurance issues. In a particularly complex civil case, Judge Rose ruled on a case of first impression involving an ordinance enacted by a local Ohio city to put impact fees on developers.

In both criminal and civil cases, he has ruled on hundreds of motions to suppress and other constitutional issues, such as search and seizure and Miranda rights.

All of this demonstrates, that without question, Judge Rose is right for this job. His background and the depth of his wide-ranging experience on the bench, the experience that makes him so well qualified for the Ohio district judgeship. I am confident that he will discharge his duties of Federal judge with the fairness, integrity, sound judgment, and energy that the people of Ohio and this Nation deserve. I whole-heartedly support his confirmation, and I encourage my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I truly believe, as I said in the debate, Democrats have been and will continue to be more fair than the Republicans were to President Clinton's judicial nominees. The fact is that more than 50 of President Clinton's nominees never got a vote. Many languished for years before they were returned without even having a hearing. Others waited for years, up to even 4 years to be confirmed.

We are moving through, as we have these last 10 months, in filling vacancies with consensus nominees.

I voted for the vast majority of these nominees. I voted for all but one of these nominees.

They are going to be Republicans. We know they are going to be conservatives. That is fine.

But I am not going to vote for somebody who will put a sign up over the Federal court saying this is no longer an independent court.

If the White House would only work with us instead of working against us, we could end the vacancy crisis by the end of next year.

Many partisans in the other party appear, unfortunately, to have decided to make judges a domestic agenda item on which this administration is intent on winning partisan, political, and ideological victories. Given the closely divided Senate—and the Congress—and the narrow electoral victory of the President, the better course would have been to work together on vacancies that we inherited from the Republican Senate.

Republicans held court of appeals judgeships open for years. Now they see their chance to pack the courts and stack the deck with conservative judicial activists in order to tilt the outcomes on these courts.

The American people do not want—and our justice system does not need—a finger on the scales of justice. It is up to the Senate to maintain the independence of the courts and the balance on them. That means resisting the appointment of ends-oriented and ideologically-driven nominees. Do not be fooled about what the fight over circuit court nominations is about.

Republicans, perhaps brilliantly from a political point of view, but disastrous from the point of view of the independence of the courts, kept vacancies on the Fifth, Sixth, and D.C. Circuits open for the last 5 years. Now they have a President with a list of what he views as ''reliable nominees.'' They are trying to get these ideological nominees through.

This is not a political fight that we in my party have chosen. Indeed, the President's recent fundraising campaign swing through the South and the

antagonistic efforts of his political adviser, Karl Rove, make clear that the Republicans have chosen this fight because they think it serves their political advantage.

They are deadly serious about their efforts to gain control of the District of Columbia Circuit, the Sixth, and the Fifth Circuits, and others—even to the point of questioning the religious background of members of the Senate Judiciary Committee, something I have never seen in 28 years in the Senate. It is one of the most reprehensible tactics that I have seen in my time in the Senate. I respect the religious background of every Member. I do not know the background of most; it is none of my business. I would never question the religious background of any nominee.

I resent greatly people on the other side of the aisle questioning my religion or the religion of members of the Senate Judiciary Committee.

This battle is over whether the circuit courts have judges who will follow precedent, respect congressional action, and act to protect individual rights of Americans, or become dominated by ideologically-driven activists.

I will continue to evaluate all of President Bush's nominees fairly, and to work in spite of the obstructionism and unfair criticism coming from the Republican side.

In the weeks and months to come we will be called upon to vote on some very controversial activist nominees. The rights of all Americans are at stake.

We have to ask whether a fair-minded, independent judiciary will survive to protect our fundamental civil liberties and constitutional rights, and whether our children and grandchildren will be able to look to the Federal judiciary for even-handed justice and protection.

That is what hangs in the balance.

I again invite the President and all Republicans to join with us in working to fill the remaining judicial vacancies with qualified, consensus nominees chosen from the mainstream, and not chosen for their ideological orientation—nominees who will be fair and impartial judges, and who will ensure that an independent judiciary will be the bulwark against the loss of our freedoms and rights.

I reserve the remainder of my time.

Mr. HATCH. Mr. President, the American people are right to ask why this unprecedented departure from the past is happening. My colleague just accused me of accusing him of religious discrimination. He has mischaracterized my pleas for civility and fairness.

Some of my Democrat colleagues have made no bones about the fact that they are slowing down the President's nominees because they are imposing, for the first time, an ideological litmus test. This is something I can not accept.

Many Americans are concerned that the abortion litmus test that some Democrats are imposing on judicial nominees would have the same effect as a religious test. Let me explain how. Most people who are pro-choice hold their position as a matter of ideology. Some even allow their chosen ideology to trump the tenets of their religion. They do so in good conscience no doubt, and I respect that and would not judge them for that.

But the great majority of people who are pro-life come to their positions as a result of their personal religious convictions. We view unborn life as sacred. Many Americans hold this view as a religious tenet, but this view does not affect their ability to interpret the law and precedent, just as skin color does not.

In effect, what is ideology to my Democrat friends is a matter of religious conviction to a large portion of the American people, regardless of their position on abortion. But many rightly fear that a judge with private pro-life views, which often derives from religious conviction, will ever again be confirmed in a Democrat-led Senate.

To impose an abortion litmus test on private views, call it ideological if you want to, is to exclude from our judiciary a large number of people of religious conviction, who are perfectly prepared to follow the law. I fear this is the door this Democrat-led Senate could be opening. If a nominee who was personally pro-life came before the committee and said they could not follow Supreme Court precedent because of their pro-life views, then I would have a problem with that nominee too. But to simply discriminate against them and say that we can not trust you, despite your assurances to the Senate, to follow precedent, because you hold certain personal view, is pure and simple religious discrimination.

I can understand why people would believe that a religious test is being imposed. They fear as I do that the result would be a federal judiciary that neither looks like America nor speaks to America.

I am afraid that what is now occurring is far beyond the mere tug-of-war politics that unfortunately surrounds Senate judicial confirmation since Robert Bork. Some of my colleagues are out to effect a fundamental change in our constitutional system, as they were reportedly instructed to do by noted liberal law professors at a retreat early last year.

Rather than seeking to determine the judiciousness of a nominee and whether a nominee will be able to rule on the law or the Constitution without personal bias, they want to guarantee that our judges all think in the same way, a way that is much further to the left of mainstream than most Americans.

The legitimacy of our courts, and especially the Supreme Court, comes from much more than black robes and a high bench. It comes from the people's belief that judges and justices will apply a judicial philosophy without regard to personal politics or bias.

So I am protecting the Senator's right to free religion, not disparaging his religion. This is nothing like the often-used and offensive race-card that the Democrats often used.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Madam President, I urge my colleagues to vote in favor of each of the four nominees.

I also urge the Senate and the administration to work at keeping the impartiality of the Federal judiciary.

I urge those on the other side of Pennsylvania Avenue to stop making this a political partisan game but to do what is best for the country.

I yield any time remaining that I may have.

Mr. HATCH. I yield whatever time I may have remaining.

VOTE ON NOMINATION OF LEONARD E. DAVIS

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Leonard E. Davis, of Texas, to be United States District Judge for the Eastern District of Texas?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 104 Ex.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NOT VOTING—3

Corzine	Helms	Thomas

The nomination was confirmed.

Mr. REID. Madam President, I ask unanimous consent that the three remaining votes be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table, and the President shall be immediately notified of the Senate's action.

VOTE ON NOMINATION OF ANDREW S. HANEN

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Andrew S. Hanen, of Texas, to be United States District Judge for the Southern District of Texas.

The yeas and nays have been ordered, and the clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 105 Ex.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NOT VOTING—3

Corzine	Helms	Thomas

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table and the President shall be immediately notified of the Senate's action.

VOTE ON NOMINATION OF SAMUEL H. MAYS, JR.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Samuel H. Mays, Jr., of Tennessee, to be U.S. District Judge for the Western District of Tennessee. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 106 Ex.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Schumer
Cantwell	Hutchinson	Sessions
Carnahan	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NOT VOTING—3

Corzine	Helms	Thomas

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The majority leader has asked me to notify everyone that following this vote we are going to a period of morning business until about 2:30 today. I so ask unanimous consent.

The PRESIDING OFFICER. Is there objection? The Senator from Oklahoma.

Mr. NICKLES. Reserving the right to object, I would like to discuss this for a moment with my friend and colleague.

VOTE ON NOMINATION OF THOMAS M. ROSE

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Thomas M. Rose, of Ohio, to be a United States District Judge for the Southern District of Ohio?

On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. THOMAS) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 107 Ex.]

YEAS—95

Akaka	Dorgan	McCain
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Ensign	Miller
Bayh	Enzi	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham	Reed
Breaux	Gramm	Reid
Brownback	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden
Domenici	Lugar	

NOT VOTING—5

Corzine	Jeffords	Thomas
Helms	Landrieu	

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

The majority leader.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I have been in consultation with the distinguished Republican leader. We are continuing to discuss matters pertaining

to the trade package currently under consideration on the Senate floor.

In order to accommodate additional discussion, I ask unanimous consent that we proceed in morning business until 2:30, with the time equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

STUDENT LOANS

Mr. DASCHLE. Mr. President, I want to talk briefly this afternoon in morning business about a matter that I know is of great importance to a number of people across the country, an issue that was the subject of some discussion in the health committee just this morning.

Students are borrowing too much, and students are working too much in order to finance rising college costs.

Sixty-four percent of all students borrow Federal student loans to finance a college education today. The typical undergraduate student graduates with about $17,000 in Federal loan debt.

Student debt is skyrocketing. As a result, many students find themselves saddled with unimaginable levels of student loan debt and experience difficulty in repaying their loans. An estimated 39 percent of all student borrowers today graduate with unimaginable student loan debt.

The administration, in late April, proposed to exacerbate the current circumstances in ways that were inexplicable to many of us. They proposed to raise student loan interest rates for consolidated loans by changing the consolidation loan interest rate from a fixed to variable rates. This proposal has come along, as I noted, when millions of students are struggling to pay for college.

According to the Department of Education, the typical borrower now graduates with almost $17,000 in Federal student loan debt, as I noted a moment ago. And more than half of all Pell grant recipients graduate with student loan debt as well. The typical Pell grant recipient who borrows graduates with almost $19,000 in loan debt.

The Office of Management and Budget, on April 25, released a third ''Offset Options for the Supplemental'' appropriations bill that is currently pending in the House. Many of us were intrigued with the offset option that they chose to use involving student loan consolidation. I will quote from the document. It is under the category ''For $1.3 billion for the Pell Grant shortfall, Student loan consolidation proposal.'' And they stipulate that would raise $1.3 billion. Now I am quoting from the OMB document:

> Changing the interest rate formula from fixed to variable is a good thing as fixed rate consolidation loans: can result in significant Federal costs; have higher average costs to borrowers; needlessly penalize borrows who consolidate their loans when variable interest rates are high; and, can have a destabilizing effect in the guaranteed loan program.

The proposal that the administration made through the OMB would cost the typical student borrower $2,800, and the typical Pell grant recipient, who borrows, $3,100 over the life of their loans.

So in order to raise that $1.3 billion for which they are proposing to offset, in part, the costs of the supplemental, what they want to do is charge the typical borrower an additional $2,800 and the typical Pell grant recipient $3,100 over the life of the loan.

Senator KENNEDY has held a hearing this morning. We were very pleased that the administration appears now to have had a change of heart, for they have announced they are reversing their position. They now recognize that this was a major error and that they will now no longer adhere to that offset as they look to ways in which to find the money to pay for the supplemental.

We are very pleased with the administration's announcement that they will not advocate this additional burden on students, both for student loans as well as Pell grants.

But I must say, I thank the distinguished chair of the HELP Committee for calling this to the attention of our colleagues, for calling it to the attention, really, of the educational community. Because of his stalwart advocacy, and the extraordinary attention that this issue has generated over the last couple of weeks, I am not surprised that the administration has now had a change of heart.

This was not a good idea. And, obviously, they have now come to that conclusion as well.

So it is good news for students. It is good news for education. And it is especially good news for those advocates, as Senator KENNEDY has personified, who have called for this change of heart from the day it was announced.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to preface my question with this observation: Under the leadership of Senator DASCHLE, there were 46 Members of the Senate—under his leadership and Senator REID's, and others—who wrote a letter to the President some 10 days ago, recognizing that if this policy of the administration went ahead, it would be like increasing taxes for the average working family by $3,700. That would be the average increase if they did not consolidate. It could go as high as $10,000.

I am wondering, I did not hear that we ever received a response to that letter requesting the deferral of that action.

As Senator pointed out, I think all of us in this body want to, first, give the assurances to young people in college that we are going to do everything we possibly can to make college affordable.

And this is my question to the leader: Doesn't the leader believe that we have a real responsibility to do everything we possibly can to make sure college is going to be more affordable for working families and for the middle income, and that we are also going to stand to make sure we meet our commitment we made to the American people and to the schoolchildren with regard to the early education bill, that we are going to try to meet our commitment to those students, to the families, to the parents, and to the local communities as well?

I am interested in hearing, as the majority leader of the Senate, how important you think it is that we continue the effort to ensure we are going to make the dreams of our young people attainable—through quality education in K–12, and through higher education—and how strongly the leader is committed to doing that, after thanking the administration for changing their position.

Mr. DASCHLE. Mr. President, no one knows more about the commitment we have made to the students who want to be involved in higher education than the distinguished Senator from Massachusetts. He can probably tell us the very day it was done. But in recent times, we have increased the cap, the availability of resources through both loans as well as the Pell grants to students in order to accommodate their additional costs.

We have recognized that their costs continue to go up. We have recognized how serious the financial problems are that many of these students have experienced. As a result, we have increased the caps. That is why the original OMB decision is so mystifying. Because as we raise the caps, if we raise the cost, then we have not done anything to help the students, so we have made this raise in eligibility for additional assistance virtually meaningless.

I might say, there is a trend here because that is basically what we did with the No Child Left Behind Act as well. We provided more opportunities for students in many respects, but then we underfund by more than $1 billion the resources we should be providing to ensure that act is fully funded.

So there appears to be rhetoric, and then there is the reality. There is the rhetoric, and then there is the resources. The rhetoric is: We want to help all these students. The rhetoric is: We don't want to leave any child behind. The reality is, we do not provide the resources to see that it happens—whether it is an OMB decision on student loans or the decision that the budget implies on the part of the administration to fund the No Child Left Behind Act.

Ms. STABENOW. Will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator from Michigan.

Ms. STABENOW. I would like to thank the leader personally on behalf of hundreds of thousands of students

and their families in Michigan for his leadership on this issue. And I also thank the Senator from Massachusetts for his leadership.

When I first heard about what the administration was proposing, I was astounded. I received calls from so many students and families in Michigan.

We all know, as you indicated, that Pell grants are important, particularly to lower income students. But so many middle-income families rely on the loan program, and rely on the ability to receive the lowest possible interest rate in order to be able to send their children to college.

I have to say, on a personal note, having had a son go through college and a daughter who is now in college, for myself with loans, I certainly appreciate what families feel.

When we saw the proposal to increase, essentially, the interest rates, it was nothing more than a tax on the ability of young people to be able to go to college and pursue the American dream. And we all certainly have a stake in making sure we do that.

So I thank the majority leader for his leadership. I know that the Senator from Massachusetts, as well, has been vigilant.

It is good news that they have appeared to change their minds, but we certainly know that minds can be changed again. As we go through this process, I know we will all stand together to make sure that this is an area we do not touch. I cannot imagine something more important than making sure the young people, the adults, and families of this country have the opportunity to get the skills they need to be successful in our economy. I am proud to stand with the majority leader in support of this goal.

Mr. DASCHLE. I thank the Senator from Michigan. She has been a tremendous advocate for education ever since the day she was sworn. I am grateful to her for her engagement and her willingness to continue to work with us. She was one of the signatories on the letter the Senator from Massachusetts has referenced. I thank her very much.

She made an interesting point. She said, what the administration has decided could be decided in another direction at some later date, and we might find ourselves in yet another set of circumstances involving the very same problem; that is, the rhetoric versus the reality, the rhetoric versus the resources. We will be going into appropriations. I worry about the rhetoric versus the resources once again. Are we going to be able to ensure that we can provide the commitment to students at all levels, that the resources will be there to match the rhetoric that we hear coming from the administration with regard to their commitment on education? I have my doubts.

We have at least two instances now so far—the student loan issue as well as the no child left behind question—where the rhetoric has far exceeded the results and the reality and the resources. I appreciate her comment in that regard.

Mr. DAYTON. Will the majority leader yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from Minnesota.

Mr. DAYTON. I had been traveling around Minnesota a couple years ago while seeking this office, and I was stunned by the increasing number of students who were relying on loans and by the increased amount of money that undergraduates and graduates were building up in debt before they even got their first job in the workplace. It is $25,000 for somebody attending a 4-year public institution in Minnesota; $50,000, even in a couple cases over $100,000, for people who have come out of graduate programs. Have you had that same experience in South Dakota in the last few years?

Mr. DASCHLE. The Senator from Minnesota is exactly right. I don't know what the amount is in South Dakota for the typical student, but the typical student nationally now graduates with about $17,000 in Federal loan debt. My guess is, it is somewhat lower in South Dakota. I have talked to a lot of students who are very concerned about paying off that debt, very concerned about the debt service they have to pay on a regular basis when they graduate. This is something about which they are very concerned. Thirty-nine percent of all student borrowers graduate today with what is termed an unmanageable student loan debt.

There is no question, this is a matter that is of increased concern to students all over the country, especially those in the Upper Midwest such as Minnesota and South Dakota. This is why we were so mystified when they said, we are going to ask students, on top of all the debt they currently have, to pay an additional $2,800 for a typical loan or $3,100 for a Pell grant recipient. I can't imagine how we would want to exacerbate their problems by adding even further cost on to the overwhelming loan debt that many of them already have.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada.

Mr. REID. I wanted the leader to be here because he mentioned it briefly. I wanted to pick up on the fact that we have all joined in the letter sent to the President. I say ''joined'' because we depend on the Senator from Massachusetts for so many things. I want to see if the leader will agree—and I know he does—the Senator, as we know, has a great pedigree, but there is no one who serves in the Senate—I am not too sure has ever served in the United States—who has been more interested and more concerned about the people who have no one here to represent them.

I made a couple of notes. On seniors, we have had no leader in the Senate such as the senior Senator from Massachusetts, whether it is Medicare, whether it is prescription drugs—you list the issues seniors are interested in, including Social Security—he is always leading the charge in that regard.

If you talk about the poor, bankruptcy, food stamps, he is always out in front, as well as on the minimum wage, Medicaid. And then when you talk about education, of course, his committee has written legislation, not the least of which is the work that was done in leaving no child behind, which is a great piece of legislation. We need to make sure there is money there. The environment, hate crimes, nuclear victims, I am so impressed with the work the Senator from Massachusetts does.

And while people come to us all the time—you certainly more than I, deservedly—about the things we have done, we usually, on many of the issues I have mentioned, take the lead from the Senator from Massachusetts.

Would the Senator agree with me that, in the history of the Senate, there have been very few Ted Kennedys who have been able to do things such as this, and every college student and parent who is paying off a loan I am sure can understand what I am saying. Would the Senator agree?

Mr. DASCHLE. In the history of the Senate, I would say there has only been one TED KENNEDY. But the point is so well taken. For 35 years, this giant of the Senate has done remarkable things, probably has more legislation attributable to his contribution in this body than anybody in recent times. We certainly recognize his many accomplishments. It is not only the level of accomplishment and achievement but the manner in which he accomplishes them that is noteworthy. I appreciate very much his calling attention to this issue as well.

This is another example. This became an issue when the country, through his committee and his leadership, was put on notice about the implications of this $1.3 billion offset. We are very grateful to him for his work in this regard.

Mr. KENNEDY. If the Senator will yield, I am grateful to both of my colleagues for their kind and overly generous remarks. I plan to be here for a while longer.

Let me just carry on and ask the majority leader, the President, with whom we worked on education, was in southern Wisconsin earlier this week talking about the Federal Government having a responsibility. He said: Generally that responsibility is to write a healthy check. We did so in 2002; $22 billion for secondary, elementary education, a 25-percent increase. We have increased money 35 percent for teacher recruitment, teacher retention, and teacher pay.

Does the Senator not find it somewhat perplexing that we see in this chart the Bush proposed increase for 2002 is 3.5 percent? It increased in 2002 as a result of the leadership of the Senators from South Dakota and Nevada and the Democrats. We got it up to 20 percent. The President is taking credit

for it out here in the Midwest. And now we have this year 12.8 percent. Do we find that somewhat perplexing when we have the President saying we have our responsibilities to write a healthy check? Well, the check was written and we increased it, but the Bush proposal is at 2.8 percent.

I wanted to mention, in the area which is of such central importance to educational reform, that is, having a quality teacher in every classroom, of all the educational issues, and there are many—afterschool programs, the construction issues, smaller class sizes—having a well-trained teacher in every classroom was key.

The President was out in the Midwest another day talking about all the work they have done, increasing teacher recruitment, retention, and pay, 35 percent. That is represented in this $742 million. We supported every penny of it.

Well, now, look at this fiscal year's proposed budget for the very same function. Zero. Not even the cost of living. Zero. I am just wondering; when the Senator talks about the difference between rhetoric and reality, there must be people in the Senator's own State who have to wonder about that as well. I am just, again, wondering whether it isn't important for us, as we are coming into the debate and national elections in 2002—money doesn't solve everything, but money is a pretty clear indication of a nation's priorities. I know the leader reached his hand out to the Republican leader and we passed a strong bipartisan bill that had reform. I think most of us thought we needed reform and resources.

This is enormously troublesome to me in terms of the K through 12, as the efforts by the administration are to prohibit consolidation. I wonder whether the leader agrees with me that education is a key priority and that we are going to have to watch every aspect of it as we continue through this legislative session so that we are going to meet our responsibilities to families across the country and sharing quality education, K through 12, and even earlier education and college education.

Mr. DASCHLE. Mr. President, I heard someone say the other day: You can't fool all the people all the time, but why not give it a try.

I think that is, in essence, what we find the administration attempting to do when it comes to education—simply assert that they are for it and try to fool all the people all the time. But the Senator from Massachusetts points out the problems with that strategy. You can't fool all the people all the time, when the resources simply don't speak to the reality.

That is exactly the problem the administration continues to face. The resources don't speak to the reality. The resources fall far short of the reality. We can all assert we are for education and that we are not going to leave any child behind. But I can tell you, there are South Dakota children left behind, there are Massachusetts children left behind, and Nevada and Minnesota children are left behind. I think that is the question we are going to continue to face throughout the remainder of the year: Will we leave these children behind because this administration refuses to provide the resources? I hope not.

Today, we got a good indication that, at least in one instance, they have changed their minds. When it comes to students, they will provide the resources that match the initial reality. We have a lot more of these instances in store, but I think we have made the first downpayment in the effort. I thank and applaud the Senator from Massachusetts for doing so.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I understand we are in morning business.

The PRESIDING OFFICER. The Senator is correct.

JUDICIAL NOMINATIONS

Mr. ALLARD. Mr. President, last week Senator CAMPBELL and I sent a letter to the chairman of the Senate Judiciary Committee expressing our concern about the state of the judicial confirmation process. We shared with the chairman our thoughts on the serious injustice being served on the American people by the committee's failure to provide hearings for the President's judicial nominations.

It is unfortunate that the citizens of the United States must bear the consequences of the Judiciary Committee's delaying tactics. It is unfortunate that the citizens must bear the burden of delayed justice. One year ago, President Bush forwarded his first 11 judicial circuit court nominees to the Judiciary Committee. Every person in this group of nominees received a ''qualified'' or ''well-qualified'' rating from the American Bar Association. Now, 365 days later, 8 of the original 11 nominees are yet to receive a hearing. One year later, we are still waiting to have a hearing for 8 of those 11 nominees.

This weekend also marks the 1-year anniversary since the President nominated Tim Tymkovich for the Tenth Circuit Court of Appeals. So, today, 1 year since he was nominated by the President, I stand before you still hoping Mr. Tymkovich will have a hearing, still hoping to fill the 3-year vacancy in the Tenth Circuit, and still hoping that the people of Colorado, Utah, New Mexico, Oklahoma, and Nebraska will no longer be victimized by a vacant bench—a bench paralyzed by a lack of personnel to move quickly through an overwhelming caseload.

So now Mr. Tymkovich, the former solicitor general of Colorado, waits indefinitely for the opportunity to serve his country. He waits indefinitely for his opportunity to help administer the justice that our constitutional Government guarantees. And the people of the United States wait for the Senate to fulfill its constitutional duties.

The events of the past year clearly demonstrate an active effort by the enemies of the United States to destroy the liberties and freedom of our great Nation. The most basic of our country's values and traditions are under attack. Congress has responded by enacting new laws and by providing financial assistance to businesses and families and defense. We acted swiftly to suffocate terrorists and destroy the hateful organizations that work to undermine our society.

Yet the instruments through which justice is served are being denied their chance to serve by ugly, partisan politics. For a year, Mr. Tymkovich's nomination has languished in the committee without action. Today, once again, I urge you to move forward with his confirmation. Mr. Tim Tymkovich is highly qualified and will serve his country with the utmost of patriotism and respect for adherence to constitutional principles. The committee must provide a hearing for the Tenth Circuit seat because the seat has remained vacant entirely too long.

A necessary component of providing justice is an efficient court system—a system equipped with the personnel and resources that enable it to fulfill its role as a pillar of our constitutional system of government.

The current state of judicial nominations is simply unacceptable. It has evolved into a petty game of entrenchment, creating a vacancy crisis that prevents the service of the very justice upon which our great Nation depends. The simple fact remains: Justice cannot be delivered when one of every six judgeships on the appellate level remains vacant. I will repeat that: One out of every six judgeships on the appellate level remains vacant.

It is unfortunate—perhaps even shameful—that the confirmation stalemate continues. How much longer will the American people have to wait? How much longer? Many people across the country are asking this same question and responding by urging the chairman to act quickly and provide hearings for qualified judges. The sentiment is being echoed across the pages of every major newspaper in the Nation and the State of Colorado. They all agree that the Senate must act to fill judicial vacancies and end this vacancy crisis.

Mr. President, I wish to share with you some of the statements made in the editorial pages of these papers. They all recognize that the treatment of certain Bush nominees has established a pattern of political partisanship. I ask that these editorials be printed in the RECORD upon completion of my statement.

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

(See exhibit 1.)

Mr. ALLARD. The first article is by the Denver Post, dated Monday, May 6, 2002. The other article I ask to be

printed is an editorial by the Rocky Mountain News from May 8, 2002. Next is an editorial by the Colorado Springs Gazette, dated May 8, 2002. Next is an editorial by the Rocky Mountain News, dated May 9, 2002.

Mr. President, the Denver Post editorial states:

> The U.S. Constitution grants to the president the power to appoint judges with the ''advice and consent'' of the Senate. There is nothing in that provision that anticipates a process in which a president nominates replacements to the federal bench and the Senate acts as if it has no responsibility to cooperate.

The Post continues in its editorial:

> . . . it is difficult to think of a single reason why [Mr. Tim Tymkovich] has been denied a confirmation hearing and an up-or-down vote in the full Senate. Such a vote is the prescribed solution for cases where there is disagreement between the Senate and the president.

The Post also expresses the frustration that the American people are feeling:

> Unless the Democrat leadership abandons its delay tactics, we think the treatment of judicial nominees ought to be a front-and-center issue in the upcoming elections.
>
> If the Senate won't vote to end the judicial logjam, maybe the citizens should.

The Rocky Mountain News notes that Mr. Tim Tymkovich is not the only Tenth Circuit nominee awaiting a hearing, there are two vacancies, both of whom were appointed 1 year ago. This means the committee is depriving the court of two qualified judges. Unfortunately, it is the people of the United States who suffer, the people who turn to the courts to address their grievances. The committee does not face the daily injustice served on the people, nor does it face the costly court delays caused by an overwhelming docket. The committee does not face the frustration of citizens as they pursue justice in front of an empty bench.

The Rocky Mountain News reveals that the chairman is blaming the President for the delay. According to the chairman, ''Controversial nominations take longer.'' But as the paper points out, there is little controversy regarding the nomination of Tim Tymkovich. Yet he still has not received a hearing.

Outside the city of Denver, newspaper headlines herald the same message, citing the stalemate as ''justice delayed'' and calling for action. The Colorado Springs Gazette states:

> There is a slate of looming vacancies on the federal bench across the country thanks in large part to backlogged nominations, and its risks paralyzing the courts.

The Gazette concludes by adding that swift justice is supposed to be a hallmark of our system; its prospects do not look good while policymakers are making it harder to get before a judge at all.

Mr. Tymkovich is an outstanding choice for the Tenth Circuit Court of Appeals, and he will serve this Nation well, but he must be given the opportunity to do so. In Colorado, his nomination enjoys broad bipartisan support and the support of our State's legal community.

He has also passed the litmus test of the chairman of the Judiciary Committee, Senator LEAHY, and is deemed qualified by the American Bar Association. The committee must move to end the confirmation stalemate and restore the people's faith that our judicial system is, indeed, built to provide all the judicial resources that are needed to provide access to the courts of law.

It must diligently perform its duty to provide hearings so that the vacancies that plague our courts may be filled. The President has asked for the forging of a bipartisan consensus in favor of fair and efficient consideration of all judicial nominations—I do not think that is an unreasonable request—regardless of the pattern of party control of the political branches of Government. I urge the committee to answer this call and move forward with the judicial nomination process and prove to the American people that the committee is, indeed, interested in serving justice.

I thank the Chair. I yield the floor.

EXHIBIT 1

[From the Denver Post, May 6, 2002]

POLITICS AND THE BENCH

There is a fresh reminder of how political the judicial selection process has become. Colorado's two senators, Ben Nighthorse Campbell and Wayne Allard, both Republicans, have written a letter to Senate Judiciary Committee Chairman Patrick Leahy, D–Vermont, pointing out that it was a full year ago that President Bush nominated Denver attorney Timothy Tymkovich to a seat on the 10th Circuit Court of Appeals.

The two senators complained, and we agree, that ''the current state of judicial nominations . . . devolved into a petty game of entrenchment'' that has created a vacancy crisis.

The recent treatment of a Charles Pickering, a Bush nominee to the Fifth Circuit Court of Appeals, consumed a great deal of the committee's time and established a pattern of political partisanship.

The issue for the committee and the nation is whether such treatment—and ultimate rejection on a straight party-line vote in committee—is a pattern the Democratic leaders of the Senate want to repeat. It will be no bargain for the country if the Senate committee adopts a strategy of simply delaying all Bush judicial nominations.

The U.S. Constitution grants to the president the power to appoint judges with the ''advice and consent'' of the Senate. There is nothing in that provision that anticipates a process in which a president nominates replacements to the federal bench and the Senate acts as if it has no responsibility to cooperate.

Because Tymkovich is well-known in Colorado, having served as the state's solicitor general, it is difficult to think of a single reason why he has been denied a confirmation hearing and an up-or down vote in the full Senate. Such a vote is the prescribed solution for cases where there is disagreement between the Senate and the president.

Unless the Democratic leadership abandons its delay tactics, we think the treatment of judicial nominees ought to be a front-and-center issue in the upcoming elections.

If the Senate won't vote to end the judicial logjam, maybe the citizens should.

[From the Rocky Mountain News, May 8, 2002]

BUSH NOMINEES TO DENVER-BASED COURT STILL WAITING FOR HEARINGS

(By Robert Gehrke)

WASHINGTON.—A year ago, it looked like smooth sailing for Michael McConnell.

President Bush had made the conservative University of Utah law professor one of his first appeals court nominees, naming him to the 10 Circuit Court of Appeals in Denver. Approval by the Senate Judiciary Committee, then chaired by Sen. Orrin Hatch, R–Utah, seemed certain.

Bush also nominated Colorado attorney Tim Tymkovich to the 10th Circuit.

A year later, Democrats control the Senate, and McConnell, Tymkovich and five other judges Bush nominated last spring are still awaiting a hearing.

Hatch, McConnell's leading backer, has criticized Judiciary Chairman Patrick Leahy, D–Vt., for moving too slow on judicial nominees, and frequently cites McConnell's case as an example.

''They know that Mike McConnell is one of the truly great Constitutional scholars. They know he's on the fast rack to the Supreme Court, so they're going to delay this as long as they can,'' said Hatch.

Keeping McConnell off the bench, Hatch said, keeps him from compiling the type of judicial experience he would need before moving up to the Supreme Court.

Sens. Wayne Allard and Ben Nighthorse Campbell, both R–Colo., urged Leahy last month to hold a hearing for Tymkovich.

''The current state of judicial nominations is unacceptable,'' they wrote in a letter to Leahy. ''It has devolved into a petty game of entrenchment, creating a vacancy crisis that prevents the service of the very justice upon which our great nation depends.''

McConnell and Tymkovich would fill the only two vacancies on the 10th Circuit, which handles appeals from U.S. district courts in Utah, New Mexico, Colorado, Oklahoma and Nebraska. Other circuits have more vacancies.

Leahy spokesman David Carle defended the pace of nominations, saying Democrats confirmed 16 more justices in their first 10 months in control than the Republicans did in their first 10 months in 1995.

Women's groups, gay-rights advocates and church-state separationists have all voiced concerns about McConnell and Tymkovich's records.

McConnell, 46, has represented several groups that have claimed government discrimination because of their religious beliefs. He has argued against a secular government in favor of an arrangement that accepts all religious on an equal footing.

He opposes abortion and co-wrote a law review article challenging the constitutionally of legislation that prohibited protests blocking abortion clinics.

He represented the Boy Scouts of America when they argued they should not be forced to accept homosexual leaders.

As Colorado's solicitor general, Tymkovich defended a state constitutional amendment prohibiting municipalities from adopting ordinances outlawing discrimination against homosexuals.

He also defended a Colorado law prohibiting state financing of abortions in cases of rape or incest.

Adam Shah of the Alliance For Justice, which helped defeat the nomination of Judge Charles Pickering to the Fifth U.S. Circuit of Appeals in New Orleans, said the group has not worked against McConnell or Tymkovich but is examining their records.

''We understand that the president has the right to name nominees that he chooses,'' Shah said recently. ''We are willing to look at the record and their political views and see if they will make good judges . . . and not turn back the clock on civil rights, women's rights and environmental protections.''

[From the Colorado Springs Gazette, May 8, 2002]

JUSTICE DELAYED

BLOCKING NOMINEES IS AN OLD POLITICAL GAME—AND IT'S UNDERMINING OUR COURTS

Let's not be naive about how presidential picks, especially for the judiciary, quickly can become political pawns for members of Congress. Holding up a nominee to the bench or to any other office requiring the Senate's advice and consent has become nothing less than a venerated tradition. And it's a bipartisan affair even as each side howls with indignation when the other does it.

Sometimes it's indulged for philosophical reasons—a judicial nominee's stance on abortion or capital punishment, for example. Other times the stonewalling is mundanely political—perhaps some senators want a president to back off of a threatened veto of major legislation. A pending nomination can prove a useful bargaining chip. It all makes for a very old game, and it has been that way almost every time the White House has changed tenants over the years.

But that doesn't make it right. More to the point, the inclination of senators to make judicial appointees cool their heels interferes with the administration of justice. The latest joust between the Senate and the presidency is no exception.

To their credit, Colorado Republican U.S. Sens. Ben Nighthorse Campbell and Wayne Allard have written a letter to the Chairman of the Senate Judiciary Committee, Patrick Leahy, D-Vt., making just that point.

''The current state of judicial nominations is unacceptable. It has devolved into a petty game of entrenchment, creating a vacancy crisis that prevents the service of the very justice upon which our nation depends,'' they wrote.

Of particular concern to the Colorado delegation is the status of Colorado's former solicitor general, Tim Tymkovich, who was nominated by President Bush in 2001 to fill the Colorado vacancy on the 10th Circuit Court of Appeals. Saturday will mark the one-year anniversary since Tymkovich's nomination was sent to the Judiciary Committee.

It's not as if there are some glaring blemishes on the man's resume. On the contrary, his nomination enjoys the broad support of our state's legal community, and he was deemed qualified when rated by the American Bar Association. and still he remains in limbo.

To reiterate, we're not being naive here. This is an old syndrome that conforms to no political boundaries. Indeed, a couple of years ago, it was Allard who for a time helped delay the nomination of a Clinton administration pick for the 10th Circuit bench.

But the underlying point the Senators make in their letter to Leahy is well taken. Quite simply, there's a slate of looming vacancies on the federal bench across the country thanks in large part to backlogged nominations, and it risks paralyzing the courts.

Whatever reservations members of either party might harbor about any given nominee, and however substantive those concerns may actually be on occasion, at some point they pale next to the need for any judge at all to attend to the logjam in federal courts.

Swift justice is supposed to be a hallmark of our system; its prospects don't look good while the likes of Leahy are making it harder to get before a judge at all.

[From the Rocky Mountain News, May 9, 2002]

GOP MAY PROTEST DELAY ON HEARINGS

COLORADAN IS AMONG BUSH JUDICIAL NOMINEES

(By M.E. Sprengelmeyer)

WASHINGTON.—Republicans might slow action in the U.S. Senate today to protest a yearlong delay in confirming President Bush's judicial nominees, including one from Colorado.

Saturday will be the one-year anniversary of Bush's nomination of Tim Tymkovich to the 10th Circuit Court of Appeals in Denver.

But he's still waiting for a confirmation hearing, as are eight of the first 11 judicial nominees Bush made a year ago today.

Republican Senators will call attention to the issue in a morning press conference, and then they are expected to invoke procedural maneuvers to slow the Senate's work throughout the day.

''It will be a slowdown in order to make their point,'' said Sean Conway, spokesman for Sen. Wayne Allard, R–Loveland.

Last week, President Bush called the situation a ''vacancy crisis,'' especially in the 12 regional Courts of Appeals, where one in six judgeships remains vacant. The Denver-based 10th Circuit is still waiting for nominees Tymkovich and Michael McConnell of Utah to get hearings.

In response, Senate Judiciary Committee Chairman Sen. Pat Leahy, D–Vermont, pointed out that the Senate had confirmed 52 of Bush's nominees since Democrats took control 10 months ago. He said Bush should share the blame for other delays.

''Controversial nominations take longer, and the President can help by choosing nominees primarily for their ability instead of for their ideology,'' Leahy said in a release.

Some groups have questioned McConnell's nomination, claiming that the University of Utah professor would weaken the separation of church and state. They also question his views because he once represented the Boy Scouts of America in its bid to exclude homosexuals. McConnell backers say the fears are based on misunderstandings and that he has been endorsed by several Democratic academics.

But there is little controversy over Tymkovich, Colorado's former solicitor general.

Last month, Allard and Sen. Ben Nighthorse Campbell, R–Ignacio, wrote Leahy, demanding that Tymkovich get a hearing.

''It has devolved into a petty game of entrenchment, creating a vacancy crisis that prevents the service of the very justice upon which our nation depends,'' they wrote.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I thank the Chair.

I congratulate Senator ALLARD for an excellent statement. I have a similar story to tell of one of our nominees from the State of Arkansas.

THE PRESIDENT'S COMMITMENT TO EDUCATION

Mr. HUTCHINSON. Mr. President, before I begin discussing the judicial nomination, I wish to respond to the colloquy that took place on the other side of the aisle regarding our President's commitment to education.

I serve on the Education Committee, and I was privileged to serve on the conference committee on the Leave No Child Behind legislation which reauthorized the Elementary and Secondary Education Act and which was signed into law in January. I saw for more than a year the President's and this administration's deep commitment and involvement to reforming and fully funding our education legislation and our commitment to our elementary and secondary education, special education under IDEA, and the bilingual and other programs that were reauthorized in this legislation.

We have incredible leadership in the White House, and that is why this bipartisan legislation passed by over 80 votes in the Senate. It disappoints me and hurts me to hear my colleagues on the other side of the aisle attack this administration and question its commitment to education. We saw in 30 years under Democrat control an education policy that got us nowhere, in which the learning gap between high-achieving and low-achieving students never narrowed, in which test scores, instead of rising, continued to fall.

Now we have a President who has said: Let's try something different; let's put real accountability into education; yes, let's increase funding, with dramatic increases in title I, dramatic increases in IDEA, special education, and dramatic reforms and increases in bilingual education; but let's accompany spending increases with accountability; let's not just spend more, let's spend smarter.

I, for one, stand and applaud the President for his leadership. I can only say as the President's poll numbers soar on leadership in education and Republicans in general score better on education than ever before, that is the only explanation for the misguided attack on the President on the education issue which we just heard today.

JUDICIAL NOMINATIONS

Mr. HUTCHINSON. Mr. President, I wish to speak about the tragic hold up of our circuit court nominees to the Federal bench. It takes only a few numbers to show the dramatic vacancy crisis we are facing in the Federal court system: 10 percent of Federal judgeships are vacant right now, 85; 20 percent of judicial seats at the Federal courts of appeals are vacant. With eight openings, half of the entire Sixth Circuit is now vacant. It is operating at half strength.

The Judiciary Committee has held a hearing on only one of President Bush's seven nominees for the Sixth Circuit, and that hearing was held just a week and a half ago after pending for over 6 months. Two of the Sixth Circuit nominees, Jeffrey Sutton and Deborah Cook, were nominated a year ago today but have not yet had a hearing.

Do they question their ability? The ABA rated both nominees as unanimously qualified, but they have languished for a year.

The numbers simply do not lie: 44 nominations are currently pending before the Judiciary Committee. Unfortunately, 22 of those unconfirmed nominees are for circuit courts, the court of last resort for most cases.

In 1996, the current Judiciary Committee chairman called a vacancy rate of only two-thirds as high as the one we face today a judicial emergency. It is even more so today, and we are doing even less about it.

Of the current 85 vacancies, 37 are considered judicial emergencies by the Administrative Office of the U.S. Courts. This is calculated based on the number of years the judgeship has been open and the size of the court's caseload.

Perhaps the most staggering fact is this: Of the President's first 11 circuit court nominees submitted to the Senate on May 9, 2001, only 3—Mr. President, only 3—have even received hearings by the Senate Judiciary Committee.

This is a crisis by any definition, by any measure, and it is inexcusable.

One of the nominees who has been waiting almost a year is from my home State of Arkansas.

He is a very distinguished, very qualified jurist named Lavenski Smith. This is my friend Lavenski Smith.

It is very easy to talk numbers. Numbers come and go. People come to the Chamber and argue numbers and statistics, but I want to put a face on what we are really talking about.

Judge Smith was nominated for the Eighth Circuit Court of Appeals almost a year ago, on May 22, 2001. I brought this picture of Lavenski Smith in the hopes this might put a human face on at least one of the people we are hurting by these unjust and inexcusable delays. Judge Smith has received broad support from both of his home State Senators, from colleagues on the bench in Arkansas, from colleagues from his days of practicing law. He has received the support of the American Bar Association. He has received the support of the president of the Arkansas NAACP. He has received the support of editorial boards of both the left and the right ends of the political spectrum in the State of Arkansas.

That is broad support. That is support from the left and the right. There is support from every colleague who has ever worked for him. There is support from his colleagues on the Arkansas Supreme Court. There is support from the American Bar Association. There is support across the board.

The NAACP president has written asking for a hearing. Yet Judge Smith's nomination languishes. Why? If he is confirmed, Judge Smith will be the first African-American Arkansan on the Eighth Circuit. I wonder what the ladies and gentlemen of the press would be saying about this nomination were the tables reversed, were Republicans in control and a Democrat nominee, an African American, who would be the first on the Eighth Circuit Court of Appeals, had languished for almost a year without even a hearing.

Ever since this nomination, I have looked forward to the day when I could sit next to Judge Smith in the Senate Judiciary Committee and I could give a glowing introduction of my friend at that hearing. I have been waiting, I have been waiting, and I have been waiting. I have written Senator LEAHY over and over, and I have talked to Senator LEAHY. Others have written and pleaded for a hearing, and yet nothing has happened.

I would like to tell my colleagues about my friend. Lavenski Smith earned both his bachelor's degree and his law degree from the University of Arkansas. Following law school and 3 years working in private practice, Judge Smith served the poorest and the neediest citizens of Arkansas as the staff attorney for Ozark Legal Services. At Ozark Legal Services, he represented abused and neglected children. These were children whose own parents were unwilling or unable to act in their best interest, putting the children in danger. So Judge Smith stepped in.

Judge Smith helped these children. He represented them in our complex legal system and navigated the foster care system for them. He helped find the safest place for these children to grow and to thrive. So he is committed to the needy. He is committed to the poorest, and he has demonstrated that with his life, not just with his rhetoric.

In addition to this public service, Lavenski Smith has volunteered his spare time to charitable endeavors such as raising funds for the School of Hope, a school for handicapped children in his hometown of Hope, Arkansas. After Judge Smith spent years working at Ozark Legal Services, Judge Smith opened the first minority-owned law firm in Springdale, AR, handling primarily civil cases. He then taught business law at John Brown University and took several positions in public service, including working as the regulatory liaison for Governor Mike Huckabee in the Governor's office. He currently serves as a commissioner on our Public Service Commission.

Now I mentioned he has this very broad support, and indeed he has. So let me share some of the statements of support for Judge Lavenski Smith, former Arkansas Supreme Court Justice, who was nominated almost a year ago to the Eighth Circuit Court of Appeals and has not been granted even the courtesy of a hearing before our Judiciary Committee.

Dale Charles, the president of the Arkansas NAACP, President Charles wrote:

> He's a fine person individually and in his time on the Supreme Court he represented himself and the court well. I encourage them to question him and let his record speak for itself. I do not foresee his confirmation being in jeopardy.

This is Dale Charles, president of the Arkansas NAACP. Dale Charles wrote this letter some time back. He wrote more recently on April 8 a specific letter to Chairman LEAHY, and I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Little Rock, AR, April 8, 2002.

Senator PATRICK LEAHY,
U.S. Senate, Chairman, Judiciary Committee, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: As the President of the Arkansas State Conference of Branches NAACP, I am writing to express our concern that Attorney Lavenski Smith, who is from Arkansas, has not been given a confirmation hearing. President Bush nominated Mr. Smith approximately a year ago for the Eighth Circuit Court, however, he has not been given a hearing before the Judiciary Committee.

While I understand there are some partisan issues involved, I am asking you as Chairman of the Judiciary Committee to, immediately, schedule a hearing on behalf of the confirmation of Mr. Smith for the Eighth Circuit Court. It is my opinion that Mr. Smith is a fine individual and has served the people of Arkansas well in his capacity as a public official.

For additional information, you may contact me at (501) 227–7231 or by e-mail at dhcharles@prodigy.net.

Sincerely,

DALE CHARLES,
President.

Mr. HUTCHINSON. I would like to share with my colleagues what the President of the Arkansas chapter of the NAACP wrote concerning my friend Lavenski Smith:

> Dear Chairman Leahy, as the President of the Arkansas State Conference Branch of the NAACP, I am writing to express our concern that attorney Lavenski Smith, who is from Arkansas, has not been given a confirmation hearing. President Bush nominated Mr. Smith approximately a year ago for the Eighth Circuit Court of Appeals. However, he has not been given a hearing before the Judiciary Committee. While I understand there are some partisan issues involved—

That is the greatest understatement ever made—

> I am asking you, as chairman of the Judiciary Committee, to immediately schedule a hearing on behalf of the confirmation of Mr. Smith for the Eighth Circuit Court of Appeals. It is my opinion that Mr. Smith is a fine individual and has served the people of Arkansas well in his capacity as a public official. Sincerely, Dale Charles, NAACP.

What kind of support does one have to have to get a hearing? How long does one have to wait to get a hearing?

In June of 2001, the American Bar Association, which has been called the gold standard of qualifications, agreed and made a unanimous qualified determination. Chief Justice of the Arkansas Supreme Court, W.H. ''Dub'' Arnold, well-respected jurist in the State of Arkansas, wrote on behalf of Lavenski Smith:

> He is a great man. He is very intelligent. He did a great job for us on the Arkansas Supreme Court. I think he'll make a great Federal judge. I think President Bush made the best possible nomination he could have made.

Now, Justice Arnold is a Democrat, but he is a fair-minded Democrat and he is a distinguished jurist and he weighs in and says President Bush made the best possible nomination he could have made.

We put in a call to Judge Smith to let him know I would be making these remarks on his behalf in this Chamber. Judge Smith said: Well, go ahead. I do not think it will make much difference, but go ahead.

I was so crushed that he is so cynical about the process that has already delayed this nomination for a year and not even given him a hearing, that his attitude about pushing hard for it really will not accrue to any results.

Mike Huckabee, Governor of the State of Arkansas stated:

> He just has all the equipment to be an outstanding jurist. I'll be the first to predict that his next stop will be the United States Supreme Court.

Governor Huckabee is a Republican. So we have Dub Arnold, a Democrat, and we have Mike Huckabee, a Republican. We have the NAACP. We have the American Bar Association in June of 2001 saying that a unanimous qualified determination has been made regarding Judge Smith's nomination. Yet he waits. It has now been almost 1 year since he was nominated.

I have thought and thought, why? I understand a nomination that is controversial, a nomination that has severe opposition within the State of Arkansas—perhaps if the letter from the president of the NAACP had been a critical letter or perhaps if his colleagues on the Arkansas Supreme Court had come out publicly and said they question his qualifications, perhaps then there would be some way to understand why there has not even been a hearing for Judge Smith.

So I have thought about why, and the only opposition I can find, I say to my distinguished colleagues and to our Presiding Officer today, to Judge Smith's nomination is found on two Web sites. One is NOW, the National Organization for Women, and the other is NARAL.

Judge Smith, for all of his qualifications, all of his distinguished service, all of his commitment to the poor, needy, and handicapped in our society, has one grave shortcoming: He is pro-life. There are those on the Judiciary Committee who have said: Don't send us a pro-life nominee. They are dead on arrival. That is tragic.

To those who for years have denounced the idea of a litmus test to the Federal bench, that we only look at whether one is qualified or not, no one raised the issue of whether Judge Smith is qualified. Yet the only opposition has been NARAL and the National Organization of Women, and they say he is pro-life; he has a record of being pro-life. How can we possibly consider him for the Eighth Circuit Court of Appeals? That is a litmus test if there ever was one, and they are blatant about it. So we wait. And Judge Smith waits.

Holding up judicial nominees is not just a political game. The confirmation process is not a payback opportunity for perceived wrongs of the past, nor should it be viewed as a chance to throw a roadblock before a new President's administration. The American people are watching the Senate's failure to fulfill its constitutional duty, and they are wondering if we understand what our role is.

Last week, I received a call from a constituent in Arkansas. She had previously written to me asking me why the President's very well-qualified nominee to the Eighth Circuit Court of Appeals, Lavenski Smith, has been waiting for close to a year without the courtesy of a hearing. I responded the way I am sure many Members do, by pointing out the letters I have written supporting Judge Smith's nomination, urging quick attention by the Judiciary Committee. I told her I was working hard to convince the committee to examine his qualifications, as I knew they would find his stellar record more than adequate for the job. I wrote to this lady, my constituent, that Senate procedure required the nominations to be reported out of the Judiciary Committee.

She received my letter and called me last week. She said she had looked through her Constitution and wanted to read to me article II, section 2.2, which states that the President shall appoint justices with the advice and consent of the Senate—not the Judiciary Committee. She wanted to know why the Senate was allowing a partisan hijacking of Senate procedure to prevent fulfillment of our constitutional duty.

I tell this story to illustrate that the vacancy crisis in the judiciary is having affects beyond the administration of justice. Our failure does not just create backlogs that allow dangerous criminals on the street longer, leaves the innocent waiting longer for vindication and slow victims access to justice. When we leave half of the bench of a court of appeals empty and another one only two-thirds full, the American people start to doubt our ability and our will to carry out our constitutional duties.

I know my colleagues on both sides of the aisle share my reverence and respect for the Constitution. I hope we will move forward and confirm, or at a very minimum, have hearings and votes on the 44 nominees still pending, including my very qualified and very dear friend, Lavenski Smith, who would be a very able jurist and judge on the Eighth Circuit Court of Appeals. This will set an important precedent for this circuit court of appeals by serving as the first African American on the Eighth Circuit Court of Appeals.

I ask once again, after nearly a year, for a hearing for my friend and for movement on these very important judicial nominations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, there have been a couple of speeches on judges. I will say a few things pertinent to the discussion regarding judges.

There is no better place to start than a few statements made by the Republicans in recent days. In 1999, the Republican leader, Senator LOTT, said:

> I am saying to you, I am trying to help move this thing along, but getting more Federal judges is not what I came here to do.

That is the Republican leader.

The Senator from Pennsylvania, Senator SANTORUM, said on November 11 of 2001:

> The delays are a result of ''rank partisanship by Tom Daschle.''

But this is what he said on the 18th day of August the year 2000:

> A number of my Republican colleagues are not likely to rush President Clinton's lifetime judicial nominees through the confirmation process when they think there is a chance another party could occupy the White House in January.

My friend, Senator CRAIG of Idaho, said in June of 1996:

> There is a general feeling . . . that no more nominations should move. I think you'll see a progressive shutdown.

Now what he is saying:

> There seems to be a concerted effort to operate very slowly around here.

My friend, ORRIN HATCH, the chairman of the committee, talked about his ideology. He said, when chairman of the committee a couple years ago:

> I led the fight to oppose the confirmation of these two judges because their judicial records indicated they would be activists who would legislate from the bench.

A couple of months ago he said:

> I would like to address some recent attempt to reinvent history by repeating this convenient myth that I, as chairman, blocked President Clinton's nominations on the basis of political ideology.

That is what he said.

Again, my friend, the Republican leader said:

> The reason for the lack of action on the backlog of Clinton nominations was his steadily ringing office phone saying ''no more Clinton Federal judges.''

Senator LOTT said he received a lot of phone calls saying ''No more Clinton judges.'' So that is what he did.

He said to the Bulletin's Frontrunner, a newspaper:

> Until we get 12 appropriations bills done, there is no way any judge, of any kind, or any stripe, will be confirmed.

Senator HATCH said:

> The claim that there is a vacancy crisis in the Federal courts is simply wrong. Using the Clinton administration's own standard, the Federal Judiciary currently has virtual full employment.

We have established the vacancies in the Federal judiciary created by Republicans. Senator HATCH said don't worry.

Although just a short time ago he said:

> If we don't have the third branch of government staffed, we're all in trouble.

The Republicans say they want hearings. I heard my friend from Arkansas say they want hearings.

These are people President Clinton nominated who never ever got a hearing—not 2 days later, 2 weeks later, 2 months later, 2 years later. They never got a hearing. Fine people. In Illinois, Wenona Whitfield; in Missouri, Leland Shurin; in Pennsylvania, John Bingler; in South Dakota, Bruce Greer; in California, Sue Ellen Myerscough; Texas, Cheryl Wattley; in Texas, Michael Schaffman.

Circuit judges in the Fourth Circuit, James Beaty; Richard Leonard, never got hearings; Annabelle Rodriquez. In the 105th Congress, Helene White, Ohio; Jorge Rangel in Texas; Jeffrey Coleman, North Dakota; James Klein, District of Columbia; Robert Freedberg, Pennsylvania; Cheryl Wattley, Texas; Lynette Norton, Pennsylvania; Robert Raymar, Third Circuit; Legrome Davis, Pennsylvania; Lynne Lasry, California; Barry Goode, California. No hearings.

In the 106th Congress, 33 never get a hearing: H. Alston Johnson, Louisiana; James Duffy, Hawaii; Elana Kagan, District of Columbia; James Wynn, North Carolina; Kathleen McCree-Lewis, Ohio; Enrique Moreno, Texas; James Lyons, Colorado; Kent Markus, Ohio; Robert Cindeich, Pennsylvania; Stephen Orlofsky, New Jersey; Roger Gregory, Virginia; Christine Arguello, Colorado; Elizabeth Gibson, North Carolina; J. Rich Leonard, District of Columbia; Patricia Coan, Colorado; Dolly Gee, California; Steve Bell, Ohio; Rhonda Fields, District of Columbia; S. David Fineman, Pennsylvania; Linda Riegle, Nevada; Ricardo Morado, Texas; Gary Sebelius, Kansas; Ken Simon, Hawaii; David Cercone, Pennsylvania; Harry Litman, Oklahoma; Valerie Couch, Oklahoma; Marion Johnston, California; Steve Achelphol, Nebraska; Richard Anderson, Montana; Stephen Liberman, Pennsylvania; Melvin Hall, Oklahoma.

Before I sit down, they talk about Hispanic nominees. There is a Hispanic nominee they say has not moved quickly enough.

Jorge Rangel, who was nominated in July of 1997, never got anything. Enrique Moreno, Fifth Circuit, nominated in 1999, didn't get anything. Christine Arguello, July of 2000—nothing happened. Ricardo Morado, south Texas—nothing happened. Anabelle Rodriguez—these are just some of the names.

I suggest before the tears run too heavily down the cheeks of my Republican friends, they should go back and read their own statements given by their own Senators, and find out the States where people who were nominated by President Clinton never got a hearing.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, how much time do we have remaining on this side?

The PRESIDING OFFICER. The Senator has 14 minutes.

Mr. LOTT. Mr. President, parliamentary inquiry, if the Senator will yield: How much time is remaining on this side of the aisle?

The PRESIDING OFFICER. Fourteen minutes.

Mr. LOTT. On each side?

The PRESIDING OFFICER. Yes.

Mr. LOTT. Mr. President, the majority leader took some time at the beginning of this debate. Was that out of leader time?

Mr. REID. It was not out of leader time.

Mr. LOTT. It was not out of leader time?

The PRESIDING OFFICER. It came out of morning business time.

The Senator from Florida.

Mr. NELSON of Florida. I ask, of the remaining 14 minutes, that I have consent to have 5 minutes and the remaining time for my colleague from Minnesota, to be followed by me.

Mr. LOTT. I reserve the right to object, Mr. President. I believe the agreement was we would have it equally divided; we could go back and forth. So after 5 minutes I would like to then have an opportunity to speak out of our time on this side.

Mr. NELSON of Florida. Then, Mr. President, I will yield to the Senator from Minnesota. He has a time problem.

Mr. WELLSTONE. Mr. President, that is very gracious. The Senator from Florida will go now followed by the minority leader and then I will follow the minority leader.

The PRESIDING OFFICER. The Senator from Florida.

THE NEGRO LEAGUES

Mr. NELSON of Florida. Mr. President, last week I learned of the death of three men. They lived apart from each other—one in Florida, one in Virginia, and one in Maryland—but they shared a special past.

All three played in baseball's Negro Leagues. They did not receive million-dollar contracts. They did not get endorsement deals. They just played baseball.

Sadly, these three men were part of a group of about 165 players who never received a pension for their time in the leagues.

The Negro League was founded in 1920 by Andrew ''Rube'' Foster. With 72 teams and more than 4,000 players, the Negro Leagues lasted until 1960, when its last team folded.

For half a century, most of the Negro League players were denied the opportunity to play in the Majors.

Even though Jackie Robinson broke the color barrier in 1947, it took another decade for Major League Baseball to really become integrated. All the while, baseball had its antitrust exemption to unfairly compete against the Negro Leagues, and systemically discriminated against most Negro League players for many years after 1947.

That is the crux of the argument many of these old-timers have about not getting even a small pension.

Though Baseball Commissioner Bud Selig sought to fix some of the problems of the past when, a few years ago, he awarded an annual $10,000 pension benefit to some of the Negro Leaguers, he left out those who played solely in the Negro Leagues from 1948 to 1960.

Major League Baseball contends they were left out because the sport was integrated during that time. But an accurate reading of history shows it took the Big Leagues many years to integrate following Jackie Robinson's debut. In fact, the Boston Red Sox didn't have a single black on its team until 1959—more than a decade after Robinson's move to the Majors.

The players still seeking a small retirement have been reaching out to Commissioner Selig now for 5 long years now. But their requests have been ignored. I joined them last year in trying to find some resolution to this dispute, but my efforts to meet with Commissioner Selig also have been ignored.

Meantime, these ex-players are getting old. Three of them died late last month—two on the same day.

On April 23, we lost James ''Pee Wee'' Jenkins, a native of Virginia. Jenkins pitched for the New York Black Cubans.

Just last year, Jenkins threw out the first pitch at Shea stadium, as the 2001 Mets—dressed in Black Cuban uniforms—paid tribute to Jenkins and the rest of his fellow 1947 Negro League World Series champions.

James Cohen, Sr., of Washington DC, also died on April 23. A World War II veteran, he pitched for the Indianapolis Clowns from 1946 to 1952, earning the nickname ''Fireball.''

In his last year with the Clowns, he played with the great, legendary Hank Aaron. Mr. Cohen went on to be a postal clerk for 35 years. And in 1994, he was honored at the White House by Vice President Al Gore. Mr. Cohen was survived by two sons, seven grandchildren and five great-grandchildren.

Back in Florida, we lost Eugene White, of Jacksonville, on April 26. He was an infielder for the Chicago American Giants and the Kansas City Monarchs. As a retiree, he coached little league. On the playing field, he taught more than baseball.

Rob Stafford, one of Mr. White's former players, recently recalled some of the lessons Mr. White taught the kids.

Said Mr. Stafford:

> He taught me a lesson that I only learned to appreciate as a man—the lesson of tolerance.
>
> He taught to never prejudge, minimalize or marginalize a person. He taught me that every person deserves a chance to participate, to be included. . . .
>
> He is now a star on God's level playing field.

Mr. White, Mr. Jenkins and Mr. Cohen were some of baseball's living legends. But these legends are dying.

And so today, to Mr. Selig and to Major League Baseball, I say this: time is running short for you to do the right

thing. Major League Baseball can choose to resolve this issue and, can give these players a small token for their achievements.

I sincerely hope Major League Baseball will.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague from Florida for his very eloquent statement. Second, I thank the minority leader, Senator LOTT from Mississippi, for his graciousness in letting me proceed. I will try to be brief.

HEALTH INSURANCE ASSISTANCE

Mr. WELLSTONE. Mr. President, last week I said to people in northern Minnesota—specifically northeast Minnesota on the Iron Range—that I thought we had a real breakthrough. I thought it was part of fast track on trade adjustment authority, including legacy costs, and a 1-year bridge where health care costs would be covered. Through no fault of any of the retirees, a lot of these companies, including LTV, declared bankruptcy and walked away from health care benefits, which is terrifying to people in their older age.

Yesterday, the administration came out with a statement about this trade adjustment assistance package:

> Specifically, the administration opposes the Daschle substitute last-minute addition of health insurance assistance for steel retirees.

There is a nightmare. I say to my colleague from Mississippi that this is an absolute nightmare for people on the range.

The President talked about how concerned he is. But this is just a 1-year bridge to help pay for these retirees' health care costs until we put together a package that deals with the legacy costs for the future.

The President crushed the hopes of people with this position that the White House has now taken.

The President says: Look what I have done for the steel industry. He talks about section 201, but now there are 1,000 exceptions to the kind of trade relief we thought we were going to get through section 201.

In Minnesota, we were concerned about what was happening to the taconite industry. We were talking about the unfair competition from semi-finished slab steel.

Basically, the administration came up with a tariff quota, and it was 7 million tons of slab steel a year, which is what is being dumped right now on the range. It didn't give us any relief whatsoever.

But, most important of all, what is happening now with this statement of position by the administration is they are just walking away from dealing with the legacy costs.

Jerry Fowler, who testified before the HELP committee a couple of weeks ago, president of Local 4108, talked about the pain on the range, and talked about all of these people. Gosh. You talk about what we say we believe in—people who have just worked their heads off all of their lives, taconite workers, helping to produce steel, which is so critical to our national security, and a part of all of our military efforts. People are really proud and are proud of their families. They are proud of the range. Through no fault of their own, 32 steel companies have declared bankruptcy, and then they walk away from these people.

They say they can no longer cover their health care benefits, nor their retiree benefits. Many people are afraid of no longer having prescription drug coverage.

People were really hopeful, and I was able to report last week, and I was proud. I thank Senators ROCKEFELLER, MIKULSKI, STABENOW, LEVIN, and certainly my colleague MARK DAYTON. We worked hard to have iron ore and taconite included.

This was a pragmatic part of the trade adjustment assistance—only a 1-year bridge, but it was a start. It would give people some security, and it was the right thing to do.

The President has talked about his concern for steelworkers. Over and over again, he professed his concern for steelworkers. Then, specifically, the administration opposes the Daschle substitute last-minute addition of health insurance assistance for steel retirees.

We know there is going to be a point of order and a budget challenge on this amendment. I believe what the White House has now done is basically sealed its fate. We are not going to be able to have this bridge. We are not going to be able to have this assistance for people.

I question this fast track for a lot of reasons, but, at the very minimum, when people are out of work through no fault of their own—or people work for an industry that has been besieged with unfair trade—the only thing they are asking for is a bridge to make sure retirees don't lose their benefits.

All of us have worked so hard together—Senator SPECTER and Senator DEWINE—to get this done. Now the administration comes out yesterday and torpedoes the whole thing.

Mr. President, are you for the taconite workers on the Iron Range? Are you for the steelworkers? You say you are.

We will be back on this over and over again. But this is a huge blow for the Iron Range in Minnesota and for me as a Senator from Minnesota trying to do my best to represent people.

Yesterday the President made it very clear that all of his talk about helping the hard-working men and women of the U.S. steel industry is just that—talk. His latest pronouncement is that steelworker retirees don't need the assistance this bill would have provided to help them for 1 year to pay for health insurance they are losing because their company has gone bankrupt.

This is outrageous—these are hard-working, decent, compassionate men and women who have devoted their lives to the steel industry—an industry that is essential to our national security—and now they find themselves without health insurance they were promised in their retirement because their companies have gone bankrupt, they're out in the cold without the resources to pay for health insurance, and the President says, oh, no, they don't need the 1-year lifeline this bill offers.

Frankly, President Bush talks about what he's done for the steel industry and for steel workers. But there is not a lot of substance there.

First, we had a section 201 decision that is looking more and more cosmetic. It may have brought relief to some sections of the steel industry, except that now the administration is entertaining all sorts of exceptions—there are over 1,000 exceptions to the President's section 201 decision and Secretary O'Neill is reported as saying that "a significant portion of them will be favorably decided."

Then there is the fact that the decision did nothing to help Minnesota's Iron Range—nor the iron industry as a whole—deal with import surges of semi-finished slab steel. While the President imposed tariffs on every other product category for which the International Trade Commission had found injury, for steel slab he decided to impose "tariff rate quotas." This brings us virtually no relief. Nearly 7 million tons of steel slab can continue to be dumped on our shores before any tariff is assessed. For folks on the Iron Range, the injury will continue.

Then, the President in his section 201 decision—and subsequently—has totally ducked the serious legacy cost problem that is suffocating the domestic steel industry. In the last 2 years, 32 U.S. steel companies have filed for bankruptcy, and these companies represent nearly 30 percent of our domestic steel making capacity. These failures weren't the fault of the workers at these companies. These failures resulted from unfair and predatory practices of our trading partners over an extended period. Yet despite the moral and economic imperative to do something about this legacy cost problem so that the steel industry, so essential to our national security, can rebuild and revitalize itself, the President has washed his hands of the matter. It is somebody else's problem he says.

And now there is the current bill. Those of us who are serious about this legacy cost problem, and it is a bipartisan group, have introduced S. 2189, the Steel Industry Retiree Benefits Protection Act of 2002, to address the legacy cost question in a comprehensive way. In the meantime, however, recognizing that every day steelworker retirees whose companies are going bankrupt are losing their heath insurance, Senator DASCHLE introduced provisions to provide stop gap assistance—

1 year of health insurance to retirees who right now are losing their benefits—to tide folks over while we work on the larger problem.

And that, incredibly, is what President Bush yesterday announced his opposition to. It is now abundantly clear, if there had been any doubt, that this President is not interested in health and well-being of our steelworker families.

In Minnesota, on the Iron Range, there are several thousand retirees who find themselves in desperate need of assistance and this administration is turning its back on them.

Earlier this year, the HELP Committee held hearings on the need for legacy cost legislation both for retirees and for the industry. The testimony was riveting. The need compelling. My good friend, Jerry Fallos, president of Local 4108 of the United Steelworkers of America, testified at those hearings. The stories he had to tell were grim indeed.

As Jerry said, the people of the Iron Range are used to hard times. They have weathered any number of challenges over the years. They are good people, proud, hard working—the best you can find anywhere. They are survivors—and they will get through these difficult times as well. They have given much to their country, and now they need our help.

The good people of the range have responded to their country in its times of needs. Over the years our Nation's economy flourished and our manufacturing industries boomed from the iron ore produced through the labors of steelworkers on the range.

Yesterday, when President Bush announced his opposition to helping these steelworker retirees he said it would cost too much. We think his $800 million estimate is way off, but even if you accept it at face value, it pales in comparison to the billions and billions of dollars of tax giveaways this administration is happy to make available to multinational corporations and the wealthy.

We are talking about $120 billion over 10 years to make the estate tax permanent, and $400 billion over 10 years to make all of the tax cuts permanent. Are these our priorities—$400 billion to multinational corporations and wealthy individuals as opposed to $400 million to help steelworker retirees keep their health insurance for 1 year?

I have asked many time before: Where are our priorities; where are our values? How can we tolerate such choices—tax breaks to help multinationals over health insurance for steelworker retirees?

These families need our help. I urge my colleagues not to turn our backs on these men and women who have served their country so well.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Fourteen minutes.

JUDICIAL NOMINATIONS

Mr. LOTT. Mr. President, I have been wanting to speak about the situation with regard to the President's judicial nominations. I have a number of points I wish to make.

I know there were some discussions about the nominations earlier this morning and even this afternoon. The major point we are trying to make today is that today is the 1-year anniversary of eight of the President's nominations to serve on circuit courts. These minorities, men and women, have not even had the courtesy of a hearing, let alone a vote in the Judiciary Committee.

I have learned over the years that when you are talking about judges and judicial nominations each side will have their statistics about what happened in the Clinton years, what happened in the Reagan years, and what happens right now. But the fact is, these eight nominees have not even had a hearing; they have been pending for a full year.

There are actually 11 nominees who were sent forward in a group—the first nominations of President Bush. Three of those have been confirmed. Two of those, I might add, were recycled, in effect, because they were Democrats, or were selected by Democrats, and they were qualified. The President resubmitted their names. They got through the process. But these eight have not had any further consideration for a full year.

You can argue statistics. But usually Presidents get their circuit nominations confirmed within a year of having them sent forward.

The President sought men and women of great experience and who meet the highest standards of legal training, temperament, and judgment—for all of his nominations, but particularly for this first group of circuit court nominees.

He sought out nominees who respect the powers given to them by the Constitution and who will interpret the law—not make the law. He sought out nominees who have reputations as lawyers of skill, discernment, and high character. He even sought out nominees who had a great deal of experience in arguing cases before the Supreme Court. In this group of eight nominees, they have collectively appeared before the Supreme Court over 60 times. One of the nominees has alone argued before the Supreme Court 30 times. In terms of their education, their experience, and their integrity, this group is unimpeachable and quite remarkable.

Here are these individuals' pictures. I think a picture helps inform our debate, because it takes the debate away from the realm of just statistics or mere names.

Mr. President, when we are talking about judges who have been delayed, we are talking about Miguel Estrada, who was born in Honduras, and has lived the American dream. He has tremendous experience in his profession, including serving as Assistant U.S. Solicitor General under President Clinton, a Supreme Court law clerk, arguing 15 cases before the Supreme Court, and working as a Federal prosecutor. He also graduated magna cum laude from Harvard Law School—not an institution known for turning out conservative lawyers, or judges—but certainly an eminently respected institution as far as quality, high standards, and academic rigor are concerned. Yet Estrada has been denied a fair hearing.

Why? Noone has suggested he is not qualified by education, by experience, or by professional or personal integrity.

Does he have a conservative philosophy? Does he believe in strict construction of the Founder's intent in interpreting the Constitution? Yes. Does that disqualify him? It should not.

I voted for Justice Ginsburg when she came before the Senate. I did not agree with her judicial or legal philosophy. I knew she would rule quite often in ways with which I would not agree. While most justices exercise discretion, you can't always count on how they may rule. But she was qualified by experience, by education, and by personal integrity and demeanor and I voted for her regardless of the fact that her philosophy was contrary to my own.

Unfortunately, I cannot think of any other reason than ideological prejudice for why Miguel Estrada has not had a hearing and an opportunity to be voted on—despite the fact that he was unanimously given the ABA's highest rating, ''well qualified'' by the American Bar Association which is supposed to be the Democrat's Gold Standard for evaluating nominees judicial qualifications. Yet, Miguel Estrada has not even had a hearing.

Another example, which is clearly one that is hard to understand, is the delay in considering Justice Priscilla Owen, a nominee to the Fifth Circuit Court of Appeals. I have a special feeling in my heart about this circuit because it does include my State of Mississippi. Judge Owen has served on the Texas Supreme Court since 1994. She has been involved in business in the private sector. She is an outstanding graduate of Baylor Law School in Texas.

Again, by education, by experience, and by personal integrity, this is a lady who should have been accorded a hearing and a vote by now in the Judiciary Committee and on the floor of the Senate.

Mr. President, why do we need another pound of flesh concerning the Fifth Circuit Court of Appeals? Is Judge Charles Pickering who has already been voted down in the Judiciary Committee not enough. If we are looking for tit for tat, how about just saying: OK, good, take that, Mr. President, TRENT LOTT, Republicans, we repaid you what you deserved from the past? But how does all of that apply to Priscilla Owen? Why has this lady not been accorded a hearing? Remember,

once again, that she has been pending for a full year.

One interesting thing of note, Mr. President, is that two of these nominees, were actually nominated by the first President Bush. So they in a sense have been waiting over 10 years to get a fair hearing and be confirmed to the circuit courts.

John Roberts is one of those two, and has again been nominated to the DC Circuit Court of Appeals. He is one of the Nation's leading appellate lawyers, having argued 36 cases before the U.S. Supreme Court, and serving as a Deputy Solicitor General for our Nation. He also graduated magna cum laude from Harvard. So again, by education, by incredible experience, and by personal integrity, he has stellar qualifications to serve as a circuit court judge. Yet, he too has been denied a fair hearing and an opportunity to be considered by the Senate by the majority of Democrats on the Judiciary Committee.

Mr. President, our Nation's fourth President, James Madison, was certainly correct when he said that the courts exist to ''exercise not the will of men, but the judgment of law.'' This President has gone to great lengths to nominate the kind of men and women who will do that once they are confirmed.

Another nominee who has been delayed for over a year without cause or justification, is Justice Deborah Cook, nominated to the Sixth Circuit Court of Appeals. She has served as a justice on the Ohio Supreme Court since 1994. Before becoming a judge, she was the first woman partner at Akron's oldest law firm. She is a graduate of the University of Akron Law School.

This is the circuit where half of the judicial seats are vacant. There is a long history on why that is, but the fact is that again the nominee is an eminently qualified nominee. And she has been waiting 52 weeks for a hearing even though the ABA voted unanimously that she was qualified.

So what is the problem, Mr. President? There are no allegations of improper conduct. There are no allegations that she is not qualified by experience, by education, or by demeanor, yet she is still waiting on a hearing.

Yet another nominee unjustifiably delayed is Judge Terrence Boyle, a nominee to the Fourth Circuit Court of Appeals. He was unanimously confirmed to be a Federal district judge in 1984.

Mr. President, one of the things that struck me as very interesting about Judge Pickering's treatment by the Democrats was that he has been a sitting federal district court judge since 1990, over 12 years. And now we have a nominee who has been a Federal district judge for almost two decades, who was unanimously confirmed in 1984. The former chairman of the State Democratic Party in North Carolina even supports his nomination. He is a graduate of American University's Law School. This is one of the two nominees, the other being John Roberts, who was first nominated to be a circuit court judge back during the first President Bush's administration. He was younger and well experienced then, and he now has another decade of experience as a Federal district court judge to his credit. And here he is back again, only to be denied a fair hearing by the Democrats.

So, in each and every one of these cases, there is no explanation for the year-long delay in giving President Bush's first group of nominees prompt and fair treatment.

Michael McConnell has been nominated to the Tenth Circuit Court of Appeals and again he is an eminently qualified legal scholar. He is one of the Nation's leading constitutional scholars, the author of legal books, and a prolific contributor to law journals. He has argued 11 cases before the Supreme Court. His reputation for fairness and integrity has generated support from numerous law professors. He is a graduate of the University of Chicago Law School. Again, on what possible grounds is such an extraordinarily qualified individual denied a hearing for over a year?

Judge Dennis Shedd, a nominee to the Fourth Circuit Court of Appeals, was another nominee unanimously confirmed to be a Federal district judge in 1990—yet another sitting Federal district judge, Mr. President. He is strongly supported in his home State by both Senators—Senator FRITZ HOLLINGS and Senator STROM THURMOND—and served in the past as chief counsel to the Senate Judiciary Committee. He is one of ours no less. Yet, he has been waiting unjustifiably for over a year for a fair hearing and a vote.

Mr. President, I believe I have talked about each one of the nominee's personal qualifications to serve on the circuit courts of America. I should note that, back in January, the chairman of the Judiciary Committee indicated there would be a hearing for Justice Priscilla Owen, Michael McConnell, and Miguel Estrada—and that they would have hearings this year. Now, I guess we have 4 more months that have expired, another 4 months in which they have not been given a hearing much less a vote.

I hope they will given more than the courtesy of a hearing, which seems the minimum they should have. They should have a vote in the Judiciary Committee and then a vote here in the full Senate.

Mr. President, the delay in confirming such well qualified nominees to be judges has had an adverse impact on the judicial system itself. The number of vacancies has gone up over the past year—there are now almost 100 judgeships vacant—while 44 nominations languish in the Senate. As a result, justice is being delayed as the caseload burden increases for almost every current judge in the nation.

I would take a moment to note one curious thing about today's efforts regarding judges. We had six judges on the calendar ready to be voted on; but only four were moved, the other two were not. One of the two nominees has a very close association with Senator HATCH. The other one is the lone circuit judge on the calendar. So, once again, it appears circuit judges are receiving worse treatment by the Judiciary Committee than are the Federal district court nominees.

I realize around here we get to thinking: Well, wait a minute, circuit courts are more involved in the interpretation of the law. Maybe they are more important. But I will tell you what, if you ever practiced a day of law, the ones you see who really are dealing with the law every day are the Federal district judges. I do not understand the big dichotomy here and why the circuit judges are being delayed and treated so unfairly.

I want to point out what is happening in terms of these circuit judges nominated by President Bush as compared to the treatment that was afforded circuit court nominees during President Clinton's first two years in office.

First off, I should note that while President Bush sent his first nominations up on May 9, 2001, a year ago, President Clinton did not send up his first batch of nominations to the Senate until August of his first year in office.

So, there was actually less time to actually get President Clinton's nominees confirmed than there has been to get George Bush's out.

Yet you can see from the chart what is actually happening with Bush's nominees, particularly with respect to the circuit judges. President Clinton, in the 14 months after his first nominee was sent up, got 86 percent of them confirmed by the time Congress adjourned. Ultimately, over the course of the following Congress, Clinton ended up getting almost all of the judges he nominated during his first Congressional term. Again, I am not going to get into great arguments over the exact percentages or numbers, but there is clearly a problem here. While Clinton got 86 percent of his circuit judges by the time his first Congress adjourned, President Bush only has 30 percent so far. And at the current pace the judiciary is considering Bush's nominees, it looks like Bush is not going to break 50% by the end of this Congress.

It looks as if we might get two or three more circuit judges by the end of the year, but it surely is moving deliberately slowly. The American people recognize this is a problem for the country. When you have a circuit like the 6th circuit that has a 50-percent vacancy rate, then you begin to wonder, do we have enough judges to cover all the cases, even the truly important ones?

This is a question of law and order, Mr. President, drug cases, terrorist cases.

Justice Rehnquist, the Chief Justice, has decried the vacancy crisis as

''alarming.'' More than 10 percent of Federal judgeships are currently vacant. So this problem for our nation that is very serious, particularly after the terrorist attacks in New York and here in Washington.

I have talked to Senator DASCHLE about it. Senator NICKLES and I, along with Senator HATCH, have talked to Senator LEAHY and Senator REID. I know, having been majority leader, that sometimes these problems are hard to resolve. The Judiciary Committee doesn't always follow instructions even from the elected leaders. But this creates a problem. We have been trying to resist slowing down or blocking meetings or progress on the legislative process because we want to move forward on these important bills. But we have to point out that there is a blatant unfairness here, to the country and to the nominees. I can't help but think of the cliche that justice delayed is justice denied. That is what is happening here.

I know my time is running out. I probably will come back and talk more about this later. I ask for fairness, fairness for these eight circuit judges. We can argue about the others later, the other circuit nominees, other district judges, but after an entire year President Bush's first eight nominees should have a hearing. They should have a vote on the Senate floor. No criticisms have been raised against them other than un-attributed hints that they are conservative, and the current majority in the Senate is looking for some sort of a litmus test or conformance, I guess, based on philosophy and ideology. I don't think that either fair or appropriate. It is not what is called for under the Constitution. I hope that the Senate will ultimately find a way to make progress in this area and give these nominees the opportunity to be fairly considered based upon their temperament, professional and educational qualifications, and their personal integrity.

As President Bush has noted in making the case for getting his nominees confirmed, Federal judges are key to making sure America functions well. Every day they uphold the rights of an individual, they protect the innocent, they punish the guilty. Their rulings are essential to the rule of law in our nation. To discharge their responsibilities the federal courts must have judges.''

Because of the number of vacancies in our nation's courts, Americans are being forced to wait for justice, and the burden on federal judges is growing heavier.

Mr. President, one newspaper, the Wichita Eagle, got it exactly right on the judges issue back in March in part I think because it is located in the heart of America when it said: ''But just as presidents have an obligation not to nominate the incompetent or unqualified to the federal bench, presidents deserve the broad authority in making their choices for such judicial posts. And the Senate has a responsibility to give those choices every possible consideration and, barring some glaring defect, confirm them quickly. Yet the backstabbing and stalling on judicial confirmations has escalated to the point of obstructing justice. It needs to stop.''

This President's nominees are men and women of distinction and great accomplishment. They are solidly within the mainstream of American legal opinion, and they share a principled commitment to follow the law, not legislate it from the bench.

Mr. President, President Bush' nominees should be given fair hearings, voted on, and confirmed by the Senate as soon as possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DASCHLE. Mr. President, the people who have been discussing and negotiating the trade matter have asked for a little additional time. In order to accommodate their discussions, I ask unanimous consent that the period for morning business be extended until 3:45.

Mr. LOTT. Mr. President, at this point I would have to object. I don't know that I would want to. I just have not had a chance to discuss this with Senator DASCHLE.

The PRESIDING OFFICER. The Senator from Georgia.

(The remarks of Mr. CLELAND pertaining to the introduction of S. 1492 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Nevada is recognized.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the time for morning business expire at 3:45 today.

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

The Senator from Kansas is recognized.

JUDICIAL NOMINATIONS

Mr. BROWNBACK. Mr. President, I rise to speak about the past year's judicial nominations, which is something on which several people have spoken today. I just came from a meeting with the President where he was talking about his frustration in getting judicial nominees considered. He was quite animated and discouraged that we have not been getting more judicial nominees through the system—particularly circuit court judges. That is what he was stating. That is what the meeting was about. He wants to see more happening and more of them occurring, and we need to do so. People have been pretty clear on the information of what technically and specifically has happened.

Since May 9 of last year, we have had 11 judicial nominees for the U.S. circuit courts of appeal. Those eleven were nominated 1 year ago. Since that time, only 3—including 2 Democrats—have been confirmed. Of the remaining 8, not one has even been scheduled for a hearing. We have not held hearings on these individuals. We need to get this done and start to move them forward. It is an issue that is engaging the country, and I think increasingly so, as we move into the fall. We have a number of pieces of legislation that I think, in the post 9–11 environment, will be considered and looked at by the courts and need to be reviewed. We need to have a fully staffed court. Right now we have a 20-percent vacancy on the circuit court; and within some of the circuits, it is even a much larger one.

In the Sixth Circuit there are 16 positions and only half of those are filled.

What is even more troubling is that we have had a long and established tradition of giving the President—regardless of his political affiliation—a good deal of deference on his nominees who might be unfairly targeted as being extremists.

However, as we found out during the Charles Pickering nomination and subsequent hearings, the real extremism is being employed by those people who are artfully using the terms ''balance'' and ''moderation'' to set the stage for ending deference to the President and excluding perfectly qualified judges. Judge Pickering was an individual nominated to go on the circuit court. He served on the Federal bench for over 10 years.

This practice does not bode well for the future of this committee when it may have to deal with Supreme Court nominees in the near future. To highlight just how bad it can be, it might be helpful to see how many Supreme Court Justices of the past would fare under the ideological litmus test that is now plainly evident and used on the committee.

Would some of our great Justices of the past survive the litmus test being put forward by the committee now?

John Marshall, the first Chief Justice of the Supreme Court and author of some of the most important legal decisions for this Nation, would likely be rejected today by the Judiciary Committee because his view on interstate commerce in the Gibbons v. Odgen would be seen as too pro-federalism.

Oliver Wendell Holmes, perhaps the greatest Supreme Court justice, would have trouble because he affirmed a state law providing for the sterilization of the mentally ill in Buck v. Bell. Felix Frankfurter, an ACLU member and a ''liberal'' Roosevelt appointee, would be rejected because he did not believe that the fourth amendment required the exclusion of evidence seized

by State police officers without a warrant in the 1961 Mapp v. Ohio case. Nor would his argument in West Virginia Board of Education v. Barnette that the first amendment prohibited schools from requiring students to salute the American flag pass muster with the committee today.

Even Earl Warren, the most liberal chief justice ever and author of Brown v. Board of Education, would have a tough confirmation battle under the committee's new standard. After all, he took the reactionary position of not supporting extension of the first amendment protection to flag burning.

Louis Brandeis, the great liberal craftsman, would no doubt be rejected because he supported federalism against New Deal legislation and voted to strike down legislation in the Schecter case as being beyond the power of Congress.

Byron White, President Kennedy's nominee, whose recent passing was mourned and elegantly eulogized around the Nation, would of course be rejected today because he committed the unpardonable sin of disagreeing with Roe v. Wade.

The question facing the President on this anniversary date is what he can do to move judges to the floor for swift confirmation. Given the extremist tactics of outside interest groups and their influence over committee members, the President could consider compromising on his philosophy of nominating judges, men and women of experience who meet the highest standards of legal training, temperament, and judgement. As history has shown, however, it would mean overlooking the kind of judges who have made our judiciary a model for the world. Unlike some issues, the integrity of the law and the qualifications of judges who will interpret and uphold them cannot be compromised.

I join my colleagues in urging Chairman LEAHY of the Judiciary Committee and Majority Leader DASCHLE in scheduling hearings and floor votes as soon as possible. I believe we have had ample time to make our points. It's now time to act.

I think if we do not act, this is going to continue to fester across the country, and that will embroil us even greater this fall, with the President leading the charge on this issue of why the Senate isn't acting. Why isn't the Senate moving these judges through—particularly circuit court judges? It will be a much more engaged and animated issue this fall, with the President leading the charge.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I rise to speak in morning business on the topic that has been the issue du jour—the question of Federal judges. It is my great honor to serve on the Senate Judiciary Committee. I have witnessed and experienced personally the Clinton administration and their efforts to fill vacancies on the Federal bench, and the first Bush administration—President George W. Bush—and his efforts to fill vacancies on the Federal bench.

I find it extremely interesting that today appears to be the national day for members of the Republican Party to complain about the pace of approval of President Bush's judicial nominees. What I find interesting about that complaint is that, just on its face, it makes no sense because we just approved four more Federal nominees who were brought to us by President Bush, bringing the total to 56.

Now, 56 Federal judges—to put it into historic context—is more than the Republicans, in any similar period of time, approved while President Clinton was in the White House during his entire tenure. In any given year, the Republicans failed to approve as many judges for President Clinton as the Democrats have already approved for President Bush. Today, the total number came to 56.

Now, I understand where the Republicans are coming from on this. They want them all. They want to fill every vacancy with a proposed nominee from President Bush, and they want this to happen immediately. It is more than just rewarding their friends and giving them lifetime appointments to the Federal bench. What is at issue here, even more importantly, is putting people with a certain philosophy on these Federal courts. Of course, their decisions as Federal judges are going to be meaningful to the Nation for generations to come—whether we are talking about rights of privacy or the environment, all of these things decided by judges.

Historically, we think, when we talk about courts and their impact, that we should focus on the Supreme Court. Of course, we should. It is the highest court in the land. But just consider for a moment this statistic: Last year, the Supreme Court of the United States decided approximately 80 cases. The courts of appeal, circuit courts, decided over 57,000 cases.

For most people looking for justice through the Federal court system, the court of appeals for their region is the last stop, the final word. These courts make binding decisions relative to statutes that have been passed by Congress and issues that are important to the American people on a regular basis, on a daily basis.

So when we consider nominees by the Bush White House for lifetime appointments to these important appellate level courts, I hope you can understand that those of us on the Democratic side feel a responsibility to know something about the nominees, and, more importantly, to make certain those nominees come close to meeting several basic standards. One of those standards, of course, is legal skill. We insist on that. I hope that is something that is not debatable. Second is integrity, which is certainly not debatable. Third, and most important, we are looking for people who take a moderate point of view.

There are lawyers who I have met that have extreme positions on the right and the left. The Republicans on the Senate Judiciary Committee sent word to the Clinton White House: Do not send us any left-wing judges because they are going nowhere. True to their word, anyone who looked like they were liberal did not have a chance when it came to the Senate Judiciary Committee in the Clinton years.

Interestingly enough, it appears the Bush White House believes they are not burdened by the same restriction. They are sending nominees for the Senate Judiciary Committee to consider who, frankly, are out of the mainstream, much more extreme in their points of view on the right than anyone ever nominated by President Clinton on the left.

When they send these controversial nominees to us, then we run into a position where it takes longer. We have to delve into their backgrounds, we have to establish their record, we have to answer the criticisms that have been raised within and without the committee about whether this person should be given a lifetime appointment to a critical Federal position.

This morning my colleague on the Senate Judiciary Committee, Senator SCHUMER of New York, held an interesting subcommittee hearing. His hearing related to what he calls the ghost of the nomination process from the Clinton years. I was glad Senator SCHUMER did that because on this day of national complaint by the Republicans, we brought to Washington four Clinton nominees who were not approved by that same Senate Judiciary Committee when Republicans controlled it. We did this so people who are following this debate could get an idea of the nominees rejected by the Republican Senate Judiciary Committee when President Clinton nominated them.

Frankly, as I look at the people who were brought before us, they are amazing in terms of their records and their backgrounds and what they brought to the job.

Let me speak for a moment about the Fifth Circuit which has become a focal point of discussion. Senator LOTT a few minutes ago was talking about the Fifth Circuit which, if I remember, includes the States of Texas, Louisiana, and Mississippi. This circuit has the highest minority population of any Federal circuit in America. The population of African Americans, Hispanics, and Asian Americans is larger in that circuit than any other circuit.

Naturally, when President Clinton was in office, he tried to address this by appointing people to the circuit court who represented the diversity of the circuit in which they would serve. Two of his nominees came before us today.

Jorge Rangel, 54 years of age, is currently an attorney in private practice in Corpus Christi, TX. He was nominated to the U.S. Court of Appeals for

the Fifth Circuit by President Clinton in 1997. Mr. Rangel was never granted a hearing by the Republican-controlled Judiciary Committee. Never. He graduated from the University of Houston and Harvard Law School. He went on to a distinguished career of 20 years in private practice with a Corpus Christi law firm where he had a mix of Federal and State work.

In 1983, he was appointed to a judgeship on the Texas State district court, and then was elected to serve for 2 years before returning to private practice. Jorge Rangel has also been very active in legal and community organizations, including time as an officer of the board of governors of the bar association of the Fifth Circuit and the American Board of Trial Advocates. He volunteered for many legal organizations, community organizations, and charitable organizations. He has written no controversial opinions or writings. He was affiliated with no liberal groups and gave no one any reason whatsoever to question his credentials and fitness for the Federal bench.

The American Bar Association took a look at Jorge Rangel and concluded he was ''well qualified'' to serve as a Federal appellate court judge. Yet, for purely political reasons, Jorge Rangel's nomination was held up more than a year from July 1997 until the end of 1998, a total of 15 months, with no explanation or hint of opposition to him.

Consider that for a minute. When you listen to this man's background, his rating of ''well qualified'' from the American Bar Association, why in the world would he be held up? It turns out that the two Senators from his home State opposed him, and because they were of opposite political faith with the President of the United States, they made certain he did not get a chance for even a hearing before the committee.

When you watch that happening, and when you listen to his testimony, you have to wonder: Where is the fairness? When you listen to the complaints today, even though the Senate Judiciary Committee under Democrat control has approved 56 nominees, many of whom are Hispanic and racial minorities, and rejected only 1, when you look at this you wonder: Why would we apply a different standard when it comes to Clinton nominees than we do to Bush nominees? That really has created the problem we face.

The simple fact is this: The nominees President Clinton sent to the Senate Judiciary Committee were held to a higher professional, political, and personal standard than the nominees being sent by the Bush White House, and many of them, even when they met those standards, were never given the courtesy of a hearing.

In that same Fifth Circuit was Enrique Moreno, 47 years old, an attorney in private practice in El Paso, a native of Mexico. Mr. Moreno graduated from Harvard University and Harvard Law School. He was nominated by President Clinton in September of 1999 to serve on the Fifth Circuit Court of Appeals. He was give the highest rating by the American Bar Association—''well qualified.'' He received significant support from community groups. He waited 15 months and, as had Mr. Rangel, he was never even given the courtesy of a hearing before the Senate Judiciary Committee.

Excuse me. When I hear my colleagues on the other side come to this Chamber and complain that we are not moving fast enough in approving the Bush nominees, consider what happened to Mr. Rangel and Mr. Moreno. What happened to them was sad, it was wrong, and it is unforgivable.

I could go through the long list of accomplishments of Mr. Moreno. Trust me, it is a long page of extraordinary accomplishments, and yet, when it came right down to it, Republicans on the Senate Judiciary Committee were determined he would never even receive a hearing, and he did not.

Let me refer to Kent Markus. Kent Markus was before our subcommittee today. He is 46 years old. He was nominated by President Clinton in February 2000 to serve on the U.S. Court of Appeals for the Sixth Circuit. The interesting thing about Mr. Markus is he had the approval of both his home State Senators, two Republicans: Senator MIKE DEWINE and Senator GEORGE VOINOVICH. Despite bipartisan support, despite being qualified by the American Bar Association and his excellent record of achievement and service, he was never, ever given the courtesy of a hearing before the Republican-controlled Senate Judiciary Committee. Finally, at the end of the 106th Congress, his nomination was returned to the White House.

Again, I will make it a matter of my official record in my statement, but trust me, his biography, his resume, are impeccable.

A final nominee I will mention today who testified before us is Bonnie Campbell. She was nominated by President Clinton in 2000 to serve on the U.S. Court of Appeals for the Eighth Circuit. She was supported by both of her Senators, Democrat TOM HARKIN of Iowa and Republican CHUCK GRASSLEY of Iowa. She was given a qualified rating by the American Bar Association. She was given a hearing before the Judiciary Committee a few months after she was nominated and given a chance at her hearing to answer any questions about her work. There were no objections voiced at all during her hearing before the Senate Judiciary Committee. No opposition surfaced in any quarter.

However, despite a noncontroversial, really unremarkable hearing, Ms. Campbell was never scheduled for a committee vote. No explanation was ever given to her. Her nomination languished until the end of the 106th Congress, and despite President Clinton's attempt to renominate her, President Bush did not do the same. Her nomination died.

Consider those four people and what they went through at the hands of the Republican Senate Judiciary Committee and then put that in context of the Republican complaints which we hear today, when we have already, under Democratic control, approved 56 nominees. I think it really makes the case.

Judicial nominees have a right, whether the Judiciary Committee is controlled by Democrats or Republicans, to expect fair and impartial treatment. But, equally, the American people have a right to expect fair and impartial judges.

Now let us get down to the bottom line. The President will find that this Senate Judiciary Committee, under the control of Democrats, will provide more approvals of his judicial nominees than Republican Judiciary Committees have done for Democrat Presidents in the past. I think that is a standard we can live up to. We have already lived up to it.

We are going to treat people fairly. We are going to give them a chance. Does that mean President Bush will get every name he sends before the Judiciary Committee approved? No. That is not going to happen because if the President sends people who, frankly, do not meet the test of moderation, legal skill and integrity, there is going to be, of course, an investigation, as there is with every nominee. There will be hearings in many cases, and some will not survive that.

The message to the President is very clear: As long as he will send us people who are moderate and not too extreme, he will be very successful. He already has 56 judicial nominees approved.

I think the single best thing this White House could take from this all-day debate about judicial nominees is this: If the President decided and said, We are going to take these four nominees—Bonnie Campbell, Jorge Rangel, Enrique Moreno, and Kent Markus—all nominees under the Clinton White House, and we are going to send them to Capitol Hill in a show of bipartisan good faith, I think we could start to make progress. I think we could start having some balance in terms of the people who will be appointed to these critical positions. But if this is going to be confrontation after confrontation, then I am sorry to say it is going to continue almost indefinitely. I hope it does not.

Let me give a list of those who never received a hearing before Congress during the Clinton years, judicial nominees sent to Capitol Hill by President Clinton while there were Republicans in charge of the Senate Judiciary Committee: Wenona Whitfield of Illinois, Leland Shurin of Missouri, Bruce Greer of Florida—none of these received a hearing before the Republican-controlled Senate Judiciary Committee.

Sue Ellen Myerscough of Illinois; Cheryl Wattley of Texas; Michael

Schattman of Texas; James Beaty and Rich Leonard of the Fourth Circuit, North Carolina; Annabelle Rodriguez of Texas—none of those received a hearing. Their names were sent to Capitol Hill, to the Republican-controlled Senate Judiciary Committee; no hearings.

Then in the next Congress, there were 10: Helene White of Michigan; Jorge Rangel I mentioned earlier, of Texas; Jeffrey Coleman of Illinois; James Klein of the District of Columbia; Robert Freedberg of Pennsylvania; Cheryl Wattley of Texas; Lynette Norton of Pennsylvania; Robert Raymar for the Third Circuit; Legrome Davis, Pennsylvania; Lynne Lasry of California; Barry Goode of the Ninth Circuit, California—all of those names, judicial nominees, sent to Capitol Hill by President Clinton never even received the courtesy of a hearing before the Republican-controlled Senate Judiciary Committee.

In the 106th Congress, 33 names sent by the President who were not given the courtesy of a hearing: Alston Johnson of Louisiana; James Duffy of Hawaii; Elana Kagan of the D.C. Circuit; James Wynn of North Carolina; Kathleen McCree-Lewis of Michigan; Enrique Moreno of Texas; James Lyons of Colorado; Kent Markus of Ohio; Robert Cindrich of Pennsylvania; Stephen Orlofsky of New Jersey; Robert Gregory of Virginia; Christine Arguello of Colorado; Elizabeth Gibson, North Carolina; Rich Leonard of North Carolina; Patricia Coan of Colorado; Dolly Gee, California; Steve Bell, Ohio; Rhonda Fields, District of Columbia; David Fineman, Pennsylvania; Linda Riegle, Nevada; Ricardo Morado, Texas; Gary Sebelius, Kansas; Ken Simon, Hawaii; David Cercone, Pennsylvania; Harry Litman, Oklahoma; Valerie Couch, Oklahoma; Marion Johnston, California; Steve Achelphol of Nebraska; Richard Anderson of Montana; Stephen Liberman of Pennsylvania; and Melvin Hall of Oklahoma.

These 52 names of judicial nominees I have read were sent to the Republican-controlled Senate Judiciary Committee under President Clinton and they were never even given the opportunity for a public hearing, never given a chance for a vote. I knew some of them personally, and I can say it is a great hardship on a professional like an attorney, where their name is pending before a committee and there is uncertainty about their future.

Some of these went on for literally years. Some of them were never given a hearing, and during that period of uncertainty their family suffered, their law practice suffered, their efforts to be part of public service were never realized. I think that is unfortunate.

That is why we are back to the point I made earlier. President Bush and those working for him and with him in the White House want to break through this situation and want to see more cooperation and want to find more balance, as we do, in terms of the judiciary.

I submit to them the four names of the nominees from the Clinton White House which we considered today, people who came before the Judiciary Committee today. Earlier, the minority leader spoke of a nominee for the D.C. Circuit Court of Appeals who is Hispanic, and I certainly think we need more Hispanic Americans on the bench.

President Bush should have a chance. Jorge Rangel is prepared to serve on the Fifth Circuit. Enrique Moreno is also prepared to serve on the Fifth Circuit. These are Hispanic Americans who should be renominated and given a chance to serve.

At the current time, we have looked at Hispanic nominees and President Bush has sent us five nominees of Hispanic origin. Of those, three have already been confirmed by the Senate under Democratic control. Two are pending: Miguel Estrada in D.C. and Jose Martinez in Florida.

Under President Clinton, Hispanic nominees who were not confirmed by the Republican-controlled Senate Judiciary Committee include: Jorge Rangel of the Fifth Circuit; Enrique Moreno of the Fifth Circuit; Christine Arguello of the Tenth Circuit; Ricardo Morado of Texas; Anabelle Rodriguez, Puerto Rico.

I think that takes us to the point where we have to ask ourselves if our friends on the Republican side really do want to see balance and want to see fair treatment, whether they will give that same fair treatment to people who were summarily rejected when the Republicans controlled the Senate Judiciary Committee. I think we have a chance to be very careful in our selection, but also to meet our national needs and obligations.

Today, incidentally, during the course of a press conference on this subject, we brought in a number of people who have had bad experiences in court to dramatize what is at stake. This debate is not a matter of rewarding an attorney, who has skills, with a new title and an opportunity to serve on the bench. It is also to create an opportunity for public service where people can make decisions that really have an impact on families' lives across America.

Today, Denise Mercado came to see us. She is the mother of three from Fayetteville, NC. She is the legal guardian of her son, Danny, who has cerebral palsy and severe mental retardation. Due to his disabilities, Danny is eligible for Medicaid funding. Jane Perkins is an attorney at the National Health Law Program in Chapel Hill, NC. Jane has represented Denise and many other clients in efforts to compel States to fulfill their legal obligations under Medicaid, to cover children like Danny. Currently, four Federal courts of appeals are considering whether States have sovereign immunity from such lawsuits, as at least one district court has ruled.

So the men and women appointed to these court positions will make decisions which have an impact on families with children with disabilities. That is just part of their responsibility, but it tells us about the gravity and seriousness of this decisionmaking process.

Rose Townsend and Bonnie Sanders are residents of South Camden, NJ. They live in a small neighborhood called Waterfront South. It contains 20 percent of the city's contaminated waste sites. The residents of this neighborhood suffer from a disproportionately high rate of asthma and other respiratory ailments. Last year, these two people joined with other residents to block the placement of a cement processing facility in their neighborhood. In December, the Third Circuit Court of Appeals ruled they could not compel the State to comply with Federal environmental regulations that implement the 1964 Civil Rights Act.

Whether it is a matter of public health, or environmental safety, these judges make critical decisions. These are just some of the people who were impacted by judges put on the Federal courts. These are important decisions. They should be handed out fairly and evenly, with some balance. The Judiciary Committee has met that standard.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Kentucky.

Mr. MCCONNELL. Madam President, I listened with interest to comments of the Senator from Illinois, looking at the whole 8 years of the Clinton administration. It is important to reiterate the only clear way to look at the 8 years of the Clinton administration is to compare them to the 8 years of the Reagan administration. President Reagan got more judges confirmed than any other President, 382. He had a distinct advantage because 6 of the 8 years he was President his party controlled the Senate. President Clinton came in a close second, 377 judges confirmed, 5 fewer, but he was in a disadvantage because his party only controlled the Senate for 2 of his 8 years. It is hard to make the case that President Clinton was treated unfairly by the Republican Congress.

What we want to talk about today is the first 2 years of any President's term—how were they treated at the beginning of their 8 years. Particularly, we focus on the circuit judge nominations.

During the first 2 years of President Clinton's term, when his party controlled the Senate, he got 86 percent of his nominees confirmed for the circuit courts. During the first President Bush's first 2 years, when his party did not control the Senate, he got 95 percent of his circuit court nominees confirmed in his first 2 years. President Reagan, in his first 2 years, got 95 percent, as well, 19 out of 20.

Let's focus on the first 2 years, the beginning of what I certainly hope will be an 8-year period of the Presidency of George W. Bush. George W. Bush has gotten a mere 30 percent of his circuit

court nominees confirmed, compared to 86 percent for President Clinton, 95 percent for the first President Bush, and 95 percent for President Reagan.

I call attention, since this is the 1-year anniversary of the first 11 nominations of President George W. Bush to the circuit courts. Only three have been confirmed, eight languish 1 year later without so much as a hearing to get a chance to explain their credentials to the Senate Judiciary Committee and to the larger Senate as well. Eleven distinguished and diverse men and women were nominated by President George W. Bush a year ago today. Only three have been confirmed. Of the remaining eight, none, not a single one, has even been afforded the courtesy of a hearing, not to mention a vote—a hearing by the Judiciary Committee.

Everyone in America is entitled to have their day in court. Even a judge is entitled to have their day in court. Our colleagues on the other side continually assure this side they are pushing fast to consider the President's judicial nominees, but my Republican colleagues and I have seen neither hide nor hair of these nominations in the Judiciary Committee. Frankly, some in the committee are worried about what might have happened to them. Where could they possibly be? A few people may recognize these individuals by sight. After all, none of them have even had a hearing. All most people know is a name attached to the nomination. No one knows what they look like; their whereabouts are a mystery. It is my hope citizens around the world would notify the Judiciary Committee if they spot these missing nominees somewhere out in America so maybe a hearing can be quickly scheduled on their behalf.

We have become accustomed to seeing missing children's pictures on milk cartons around America. We thought it might be appropriate to put the names of some of the nominees on milk cartons, so if any of our people across the country have seen any of them, maybe they could report them to the Judiciary Committee and the missing people could actually be given an opportunity to be heard.

A good first person to put on the milk carton is Miguel Estrada, nominated 365 days ago, this very day last year, to the D.C. Circuit Court. The ABA gave Miguel Estrada a unanimous well qualified. That is very hard to do. It is very tough to even get a partial well-qualified rating from the ABA but to get a unanimous rating of well qualified is truly extraordinary.

Miguel Estrada's life and his career is a great American success story. I am married to one of those immigrants who came to this country and didn't speak a word of English at 8, so I am very familiar with these wonderful stories of coming to America, particularly those who have been thrown into our public schools at an early age, not speaking English and coming to grips with that.

That is exactly what happened to Miguel Estrada. He came from Honduras, emigrated to the United States as a teenager, speaking virtually no English. Yet he graduated phi beta kappa from Columbia in New York and was editor of the Harvard Law Review. Miguel Estrada came to this country, not speaking a word of English, an honor student at Columbia, elected to the Law Review at Harvard, unanimously ''well qualified'' by the American Bar Association, an inspiration to immigrants all across America and particularly to Hispanic immigrants. He has argued 15 civil and criminal cases before the U.S. Supreme Court. But Americans do not know what he looks like. He has never had a hearing. He has never been able to show up in public and make his case that maybe this immigrant success story, an example to look up to by everyone in America, but particularly our immigrant population who came here and had to deal not only with learning the language but learning a new culture, this hero of the immigrant community has been languishing in the Judiciary Committee for 365 days. There is no indication in sight that he will be given a hearing.

To anyone who may be looking, if you have seen this man, you might want to report it to the Judiciary Committee so he can get a hearing.

Another nominee from a year ago, arguably pending for a decade, John Roberts has been waiting over 10 years for a hearing. He was nominated by the first President Bush over a decade ago to the D.C. Circuit Court and back then was pending for over a year without ever receiving a hearing. The current President Bush renominated Mr. Roberts 365 days ago, a year ago today, to the same court, the D.C. Circuit Court. Again, he has not had a hearing. This outstanding lawyer, again, unanimously rated ''well qualified'' by the ABA—and it is very tough to get a rating such as that—has actually been waiting for 2 years, 2 years just to get a hearing, an opportunity to tell his story. So we thought maybe he ought to be on the milk carton, too.

This unanimously well-qualified nominee has a long and distinguished career in public service, including serving as principal deputy to the Solicitor General from 1989 to 1993, and associate counsel to President Reagan from 1982 to 1986. The previous nominees had 15 arguments before the U.S. Supreme Court; this nominee has argued 36 cases before the U.S. Supreme Court and 20 cases in the U.S. appeals court across the country.

Has anyone seen John Roberts? Does anyone even know what he looks like? Has he been dropped into a black hole? Another great nominee of a year ago missing in action, not even given a hearing.

Also nominated a year ago today was Jeffrey Sutton. The ABA gave him—a majority—''qualified,'' and the rest gave him ''well qualified.'' So it was a split rating. The minority gave him ''well qualified''; the majority gave him ''qualified''—a very good rating.

Mr. Sutton graduated first in his class from Ohio State University College of Law. He has argued nine cases before the U.S. Supreme Court, both as a private attorney and as solicitor for the State of Ohio. He has taught constitutional law at Ohio State for the last 8 years.

Has anyone seen Jeffrey Sutton? Does anybody know what he looks like? He hasn't had an opportunity to be seen in public. Maybe he, too, should be put on a milk carton so somebody could recognize this guy and maybe report to the Senate Judiciary Committee that they have seen him. He really does exist. Maybe he ought to get an opportunity to be heard.

Jeffrey is a nominee for the Sixth Circuit, and I want to dwell on that for just a moment. Kentucky happens to be one of the States in the Sixth Circuit: Michigan, Ohio, Kentucky, and Tennessee. It is 50 percent vacant. That is not because the President has not sent up nominations. There are seven nominations up here. But not a single nominee from the Sixth Circuit has been confirmed. We have a judicial emergency. The Sixth Circuit is dysfunctional, not because the President has not made nominations.

I mentioned Miguel Estrada's success story. Here is a nominee from Michigan who, if confirmed, would become the first Arab American on a circuit court in American history, a nominee from the State of Michigan who, if confirmed, would become the first Arab American on a circuit court in the Nation's history. He has not yet had a hearing.

Jeffrey Sutton has been sitting there for 365 days, also for the Sixth Circuit. He is from the State of Ohio. If anybody sees Jeffrey Sutton, I want you know what he looks like. This is what he looks like. Send his picture in to the Judiciary Committee. Maybe he could at least get a hearing and an opportunity to state his qualifications for the court.

Deborah Cook: She has been a justice on the Ohio Supreme Court for the last 8 years—again, a Sixth Circuit nominee. This is the circuit that is 50 percent vacant—not because the President has not sent up nominations but because they have not been acted upon. Deborah Cook has been sitting there for 365 days. She was nominated a year ago today in the first batch sent up by President Bush.

Prior to her service on the Ohio Supreme Court, she was an appellate court judge for 4 years. She has been unanimously rated ''qualified'' by the American Bar Association. Has anybody seen Justice Cook? I wanted to make sure we could get a sense of what she looked like. This is a picture of Deborah Cook. If anyone wants to call her qualifications to the attention of the Judiciary Committee, they might take this opportunity to do that.

Terence Boyle is another nominee who arguably has been waiting 10 years for a hearing. He was nominated a decade ago by the first President Bush and waited for over a year without receiving a hearing at that time. He was nominated again 365 days ago, a year ago today, to the Fourth Circuit. The ABA unanimously rated him well qualified, just like Miguel Estrada—unanimously ''well qualified.'' That is as good as it gets. That means the committee of the ABA unanimously found this nomination to be of the highest order.

This nominee currently serves as the chief judge of the U.S. District Court for the Eastern District of North Carolina and has been on that court since 1984 when his nomination to that court was unanimously confirmed by the Senate.

Has anyone seen Judge Boyle? We know he exists. We have seen his name on paper. This is what he looks like. If anybody sees Judge Boyle, they might call the Judiciary Committee and say maybe this unanimously well qualified nominee ought at least to get an opportunity to be heard, a chance to be questioned by the members of the committee, so we can make a determination as to whether or not he deserves a chance to be voted upon.

Michael McConnell—I wish this fellow were related to me, but he is not. In fact, I found out after he was nominated that he is from my hometown. I went to high school in Louisville, KY. I never knew him. I am not related to him or his parents, but I wish I were. What an outstanding nominee.

He was nominated for the Tenth Circuit 365 days ago, a year ago today. Again, the ABA found him, unanimously, ''well qualified.'' Like Miguel Estrada, like several of the other nominees I have mentioned, that is as good as it gets—unanimously well qualified.

Mr. McConnell is a distinguished law professor at the University of Utah College of Law and has served as an Assistant Solicitor at the U.S. Department of Justice. He is widely regarded as an authority on constitutional law, particularly issues involving the first amendment and religious clauses.

Mr. McConnell has received the support of over 300 college law professors, including the noted liberal professors Cass Sunstein and Sanford Levinson. Support for Mr. McConnell is across the ideological spectrum from the people who know him best, law professors around America.

Has anybody seen Michael McConnell? I want you to be able to recognize him. This is his picture. This nominee, unanimously ''well qualified'' by the ABA, surely could at least be given a hearing before the committee to have an opportunity to state his qualifications and be asked questions.

Justice Priscilla Owen is on the Texas Supreme Court. She was nominated 365 days ago, a year ago today. She has served with distinction on the Texas Supreme Court for the past 8 years. Now she is being nominated for the Fifth Circuit. The ABA has unanimously rated her well qualified.

This is a situation where we have a judicial emergency. A judicial emergency has been declared here. Yet we have a nominee who has been languishing for a year with not even so much as a hearing.

So, this is what Justice Priscilla Owen looks like. She is an attractive, nice looking woman, smart lawyer.

If anybody sees her here in the hall, they might direct her down to the Senate Judiciary Committee. Maybe she could ask somebody for a hearing.

Dennis Shedd was nominated 365 days ago—1 year ago today—to the Fourth Circuit Court of Appeals. He served as a sitting Federal judge for the U.S. District Court for South Carolina since 1990. The ABA rated him ''well qualified.'' He taught at the University of South Carolina from 1989 to 1992 and has been chief counsel to the Senate Judiciary Committee right here in the Senate.

I am sure there are people over in the Senate Judiciary Committee who know what Dennis Shedd looks like because he used to run that committee staff. Maybe we don't need to send them a picture of Dennis Shedd. Maybe some of them actually remember him. You would think Dennis Shedd, as a matter of common courtesy, having formally been staff director over at the Judiciary Committee, could at least get a hearing so he could state his qualifications and have a chance to make his case.

The message for today is that it has been a year since the President sent up his first 11 nominations for the circuit courts. Eight of them have dropped into a black hole and have literally disappeared.

That is why we thought it might be a good idea to have a picture of some of them in case it might help in recognizing them and giving them an opportunity for fundamental fairness. We are in the first 2 years of George W. Bush's Presidency—not the last 2 years, not the last year, not the last 6 months. I think we can all concede that toward the end of a President's term, nominations frequently don't move. But there is no precedent—none—for this kind of slow walking and stonewalling in the beginning of a President's term. President Clinton got 86 percent of his circuit court nominees in the first 2 years. His party controlled the Senate. I am, frankly, surprised that it wasn't 100 percent because his party controlled the Senate in the first 4 years of his term. But he got 86 percent.

The first President Bush got 95 percent of his nominees in his first 2 years and his party did not control the Senate.

President Reagan got 95 percent of his circuit court nominees in his first 2 years and his party did control the Senate.

As you can see the pattern here, no matter who has been in the majority of the Senate, and no matter who has been in the White House in the first 2 years, these games have not been played in the past. This is unprecedented. You can throw the statistics around as much as you want, but we are talking about the first 2 years of a President's administration. It has never been done before.

The good news is it is not too late. This is May 9. There is a month left. It is never too late for salvation.

It is my hope that these outstanding nominees missing in action and who have seemingly dropped down a black hole will get an opportunity to be heard as a matter of fundamental fairness.

I had an opportunity, along with others, to meet with the President earlier today on this issue. I heard some suggestions made on the other side of the aisle that this is really all about in effect telling the President who to send up. In other words, Mr. President, send up a certain kind of nominee or you won't get action. I can't speak for the President, but I have the clear impression that this President believes, as all other President's believe, that the business of selecting nominees to the circuit court level and to the Supreme Court level are Presidential prerogatives. I don't think this President is going to operate any differently on that issue than President Clinton or President Carter or President Roosevelt. We all know that Senators have an opportunity to make suggestions on district court nominees. That has not changed. But circuit court nominees and Supreme Court nominees have historically and will be forever the prerogative of the President.

The thought that any of us are going to be able to dictate to this President or any other President who those nominees might be is absurd. It is not going to happen tomorrow. It is not going to happen a month from now. It is not going to happen ever. No President—Republican or Democrat—is going to allow the Senate, no matter which party controls the Senate, to in effect tell him or her who they are going to pick for the circuit courts.

It is time for a fair hearing. And it is time to vote. If the members of the Judiciary Committee want to vote down these nominees, that is certainly their prerogative. They have done that already once this year. But it is time to quit hiding out. It is time to stand up and be counted. It is time to allow these missing people to be seen and heard, and to vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. REID. Madam President, I have spoken to my counterpart, Senator NICKLES. He wishes to speak for 15 minutes. That would go past the time set aside for morning business. I ask unanimous consent that the Senator from Oklahoma be recognized for whatever time is left, plus enough time to make it 15 minutes.

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

The Senator from Oklahoma.

NOMINATIONS

Mr. NICKLES. Madam President, I rise today to join my colleagues in expressing real disappointment in the fact that we have eight nominees to the U.S. circuit courts of appeals, who were nominated a year ago, who have yet to have a hearing before the Senate Judiciary Committee.

Nineteen of 30 circuit court nominees have yet to have a hearing—19 out of 30. I have stated to my colleagues—and I state this on the floor of the Senate, just as sincerely as possible—we should treat all judicial nominees fairly.

Some people say: Well, we are having a little retribution because you didn't treat people well in President Clinton's last year.

The tradition of the Senate has always been to give a President his or her nominees pretty good access to the Senate for confirmation purposes in the first 2 or 3 years of their Presidency. The tradition of the Senate, also, is to kind of slow it down in a President's last year.

Certainly, if you look at what happened in the last three Presidencies, that is what has happened. Unfortunately, the current President Bush has not had fair treatment for his judicial nominees, especially circuit court nominees, in his first 2 years. That is just a fact.

The chart I have shows that we have only confirmed 9 out of 30. That is 30 percent. There is another nominee who is pending on the calendar. Hopefully, that will be cleared fairly quickly. That would be 10 out of 30. That is one out of three nominated judges confirmed.

If you look at President Clinton's first 2 years, he got 19 out of 22. If you look at President Bush I, he got 22 out of 23. President Reagan got 19 out of 20. So President Reagan and President Bush I got 95 percent of their circuit court nominees confirmed in their first 2 years. President Clinton got 19 out of 22. That is 86 percent.

We should always be confirming those kinds of percentages unless they nominate people who are totally unqualified and are undeserving of the position. But we are not doing that.

Also, if you look at the total numbers, President Reagan got 98 percent of all the judges that he nominated confirmed in his first 2 years. President Bush I got 93 percent of the judges he nominated confirmed in his first 2 years. And President Clinton had more judges confirmed than either of the two by a considerable amount; he had 129 judges confirmed in his first 2 years, which is 90 percent.

For the current President Bush, we have now done 56 percent. We are moving along, at least now, at 60-some odd percent for district court judges. But the big discrepancy is, we are way behind in circuit court appellate judges—way behind—and these individuals are not being treated fairly. They are eminently qualified. And to think that eight were nominated a year ago.

Somebody said: Why are you making such a fuss now? Because enough is enough. Eight of these outstanding, qualified individuals were nominated a year ago today, and they have not had a hearing. Why? Are they not qualified? Well, let me just look at some of their qualifications.

John Roberts was nominated to the DC Circuit Court of Appeals. He has argued 37 cases before the U.S. Supreme Court. Evidently, the private sector thinks he is eminently qualified. He was unanimously rated ''well qualified'' by the ABA. He is a Harvard Law School graduate, magnum cum laude. He was managing editor of the Harvard Law Review. He was a law clerk to Supreme Court Justice Rehnquist. And he also was the Principal Deputy Solicitor General for the United States from 1989 to 1993.

You will be hard-pressed to find anybody more qualified than John Roberts anywhere in the country to sit on any bench. Yet, he cannot get a hearing, and he was nominated a year ago. I am embarrassed we have not been able to schedule a hearing for John Roberts.

I hope, in the course of this dialog, Senator LEAHY or Senator DASCHLE will join me. I would like to ask the question, why can't we get a hearing for him?

Miguel Estrada is also nominated to the DC Circuit, a partner of the DC firm of Gibson, Dunn & Crutcher. He has argued 15 cases before the U.S. Supreme Court. He was unanimously rated ''well qualified'' by the ABA. He immigrated to the United States as a teenager from Honduras and, at the time, hardly even spoke English. Yet, he graduated from Harvard Law School magnum cum laude. He was an editor of their Harvard Law Review. He was a law clerk to Justice Kennedy. And he is a former Assistant Solicitor General and Assistant U.S. Attorney. He has been a prosecutor. He worked as a law clerk for a Supreme Court Justice. He argued 15 cases before the Supreme Court. He is eminently qualified. He is Hispanic. And we can't get a hearing?

The District of Columbia Circuit Court of Appeals has four vacancies. A year ago, they were saying they really needed at least three judges. And we can't get a hearing for two of the most qualified people anywhere in the country for these two positions. This is unbelievable.

Priscilla Owen was nominated to the Fifth Circuit Court. She has served on the Texas Supreme Court since 1994. She was unanimously rated ''well qualified'' by the ABA. She is a Baylor Law School graduate, with honors, and a member of the Baylor Law Review. She had the highest score on her Texas bar exam, and 17 years of prior experience as a commercial litigator.

Just another example. Why is she not entitled to have a hearing? I think when these individuals have hearings, it is going to be obvious they are well-qualified. There will be no reason whatsoever to attack them or to vote no. So people do not want to have a hearing because they know if they have a hearing, they are going to be confirmed.

Terrence Boyle was nominated to the Fourth Circuit. He is presently the chief judge in the U.S. District Court in the Eastern District for North Carolina, and has been since 1997. He was unanimously rated ''well qualified'' by the ABA. He is a graduate from American University, Washington College of Law. He also served as minority counsel for the House Subcommittee on Housing, Banking, and Currency from 1970 to 1973, and legislative assistant to Senator HELMS.

We usually treat former Senate staffers with a little courtesy. We usually give them a hearing. This is a person who has had a little experience in the Senate working on the Judiciary Committee, in addition to serving as a district court judge from 1984 to 1997. We can't even give him a hearing? I don't think that is right.

Michael McConnell is nominated to the Tenth Circuit Court of Appeals. He is presently a Presidential professor of law at the University of Utah. He was unanimously rated ''well qualified'' by the ABA. He is a renowned constitutional law expert. He has argued 11 cases before the U.S. Supreme Court. He graduated at the top of his class from the Chicago Law School. He was a law clerk for Justice Brennan, and also served as a prior Assistant Solicitor General. Michael McConnell was nominated a year ago and has yet to even have a hearing.

Deborah Cook is nominated to the Sixth Circuit Court of Appeals. She is presently serving as a justice on the Supreme Court of Ohio, and has since 1994. She was unanimously rated ''well qualified'' by the ABA. She is an Akron School of Law graduate, and practiced with Akron's oldest law firm. She sat on the Ohio District Court of Appeals from 1991 to 1995. She also chaired the Commission on Public Legal Education, and has also been a member of the Ohio Commission on Dispute Resolution. She is more than qualified.

Jeffrey Sutton is also nominated to the Sixth Circuit Court.

On the Sixth Circuit, there are 8 vacancies out of the 16. One-half of the circuit court of appeals is vacant, desperately needing some assistance.

Mr. Sutton a partner in the law firm of Jones, Day. He is rated well qualified by the ABA minority and qualified

by the ABA majority. He graduated first in his class from Ohio University College of Law. He is a former law clerk to Supreme Court Justices Powell and Scalia. He has argued 9 cases and over 50 merits and amicus briefs before the U.S. Supreme Court, and he is a prior State solicitor in the State of Ohio.

Dennis Shedd, nominated to the Fourth Circuit Court, is a U.S. district court judge in South Carolina and has been since 1991. He is rated well qualified by the ABA and had 20 years of private practice and public service prior to becoming a district judge. His law degree is from the University of South Carolina, and he has a master of law degree from Georgetown. He is a former chief counsel and staff director of the Senate Judiciary Committee and counsel to the President pro tempore from 1978 to 1988. He is supported by both of South Carolina's Senators. Again, he is a former staffer.

The Senator from Nevada knows, as I mentioned this before—we used to have a tradition that we would give former staffers an expeditious hearing. But Dennis Shedd was nominated a year ago.

These are eight of the most qualified individuals you will find anywhere in the country for any such position. The fact that they have not had a hearing when they were nominated a year ago brings real disrespect and disrepute on this body. Shame on us. Shame on the Senate. We have only confirmed one-third of the district court of appeals judges nominated by President Bush. Eight people have to wait a year for a hearing? We are making these nominees wait around while their friends and associates are asking: When will you be confirmed? I understand you were nominated. You were nominated a year ago. You haven't even had a hearing.

How disrespectful of the judicial process can we be? I am ashamed of this record. I will state for the record now that I believe at various points we may well be back in the majority. I have been in the Senate—majority, minority, majority, minority. I think we will be back in the majority. I am committed to making sure that all judicial nominees are treated fairly regardless of who is in the White House and regardless of who runs the Senate. I think we owe it to the nominees. I think we owe it to the process. We owe it to the division of power between the executive branch, the judicial branch, and the legislative branch.

The legislative branch is wrecking this balance of power by not staffing and not allowing judicial nominations to be heard, to be voted on, to be confirmed. We have checks and balances. I believe the forefathers would be rolling over if they realized how slowly we were going on certain judges, circuit court appellate judges especially.

With all sincerity, there are ways we can go in this body to get people's attention to make sure these individuals get fair consideration. My hope and desire is to give them fair consideration without exhibiting a pattern of ''we will hold this up and hold this up; you will not be able to mark this up; not be able to get a quorum; you will not be able to do business.'' I hope we don't have to resort to that.

Senator REID is one of my very dear friends, Senator DASCHLE, Senator LEAHY. I urge them, give these people a chance. Give these eight people who were nominated to the appellate level a year ago, give them a hearing, and let's vote. There is no question they are eminently qualified. We should be voting. That is our constitutional responsibility. Let's do it. I will commit we will do it in the future as well.

I hope people will hear these comments made by myself and others and listen to us. Let's work together and treat judicial nominees fairly so we don't have to resort to various types of threats and intimidation and lack of cooperation to make our point to get these individuals consideration on the floor of the Senate.

I yield the floor.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. REID. Madam President, I was waiting to hear from the two leaders. Senator LOTT and Senator DASCHLE have spoken on a number of occasions. Senator DASCHLE is extremely anxious to get on with some substantive legislation in the Senate. The trade bill is pending. We virtually have been waiting all day for some Senators to come up with a proposal.

I have been told by the Republican leader that that answer will come at 4:15 today. I hope that is the case. I would therefore ask unanimous consent that the Senator from Pennsylvania, Mr. SPECTER, be recognized to speak as in morning business for up to 10 minutes, and then the Senator from Arizona, Mr. MCCAIN, although I think Senator MCCAIN may have been here first.

Mr. MCCAIN. I don't wish to speak as in morning business.

Mr. REID. It is my understanding the Senator from Arizona wishes to be recognized for purposes of a unanimous consent request. I ask that he be recognized for up to 5 minutes to make whatever statement he wishes in regard to that unanimous consent request and that, after that time, morning business be concluded.

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

The Senator from Pennsylvania.

JUDICIAL PROCEDURES

Mr. SPECTER. Madam President, I thank the Senator from Nevada for working this out for morning business. I have sought recognition to comment about two matters.

First, I compliment my colleague from Oklahoma for the comments he has made about the need to move ahead with nominees. It would be my hope that from the current disagreement we might work out a permanent protocol to solve the problem which exists when the White House is controlled by one party and the Senate by another party. The delays in taking up judges has been excessive.

This is the 1-year anniversary where some nine circuit judges, well qualified, have not even had hearings. But in all candor, a similar problem existed when President Clinton, a Democrat, was in the White House and we Republicans controlled the Senate.

I have advocated a protocol. Within a certain number of days after a nomination, the hearing would be held; within a certain number of additional days, there would be action by the Judiciary Committee on a vote; and within another specified time, there would be floor action, all of which could be expanded for cause. And an additional provision, not indispensable, is that if there were a strict party-line vote in committee, the matter would automatically go to the floor.

I thank the Chair.

I yield back the remainder of that time, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized.

UNANIMOUS CONSENT REQUEST—H.R. 3529 and S. 2485

Mr. MCCAIN. Mr. President, I intend to propose a unanimous consent request that we take up the Andean Trade Promotion and Drug Eradication Act.

It is vital that we address this issue. ATPA expired on December 4 because Congress had not taken action on the legislation. The House of Representatives passed an extension on November 16, and the Senate has failed to do its work on this issue.

These countries need our help. It is in the United States' national interest not to see these countries degenerate into economic, political and, in the case of Colombia, armed chaos. We need to act on this issue. Why it has been tied to TPA and TAA is something I do not understand.

Perhaps the Trade Promotion Act and the Trade Adjustment Assistant Act are important. I think they are of the highest priority, but the Andean Trade Preferences Act—referred to as ATPA—is of time criticality. It expired. There are tariffs that these countries will have to pay.

These are poor countries. They have unemployment rates of 30, 40, 50 percent. Colombia is degenerating into

chaos. Peru is in a situation—if I might quote from the Christian Science Monitor:

> Rebel groups' presence growing near Peru's capital. The Shining Path wants to show that democracy is weak, it can't handle problems with crime and corruption, and the government's inability to improve the country's economy.

Andres Pastrana wrote in the Washington Post on April 15:

> Finally, continued U.S. support for planned Colombia and final Congressional passage of the Andean Trade Preferences Act will strengthen Colombia's economic security. The trade act will have a minuscule impact in the United States but will create tens of thousands of jobs in Colombia and across the Andean region. Enhanced ATPA now being considered in Congress will foster new business investment in Colombia.

These countries are in trouble. If these countries are not allowed to engage in economic development, are not given our assistance, with which we have provided them since 1991—this Trade Preference Act—then we are going to pay a very heavy penalty. We have already had to allocate a billion dollars to Colombia to help them militarily. Situations now are arguably worse than 2 years ago when we first began this matter. Every objective observer will tell you Colombia is in terrible shape. In Peru, people are losing confidence in democracy. In Ecuador—I have read stories about Hezbollah and other terrorist entities locating in these countries.

We don't have the time to waste fooling around with aid to steelworkers, or adjustments to health care, which are directly related to the Trade Promotion Act, not to the Andean Trade Promotion and Drug Eradication Act. I hope we can have some debate and discussion about that.

I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 3529; further, I ask unanimous consent that the Senate immediately proceed to its consideration, all after the enacting clause be stricken, and the text of S. 2485, the Andean Trade Promotion and Drug Eradication Act, be inserted in lieu thereof. I further ask consent that the bill be read the third time and the Senate proceed to a vote on passage of the bill, with no other intervening action or debate.

Mr. NICKLES. Mr. President, reserving the right to object, I want to clarify the request that my colleague from Arizona made.

The request is we would move immediately to the Andean Trade Preference Act, which is a continuation of the current law going back to 1991 which would assist four countries—the Senator mentioned the four countries: Colombia, Peru, Ecuador and Bolivia, all of which desperately need our help.

The Senator's intention is to continue to assist those countries so we do not have punitive tariffs hit, I believe, by the 15th of this month, next week; is that correct?

Mr. McCAIN. That is correct.

Mr. NICKLES. Mr. President, I compliment my colleague from Arizona. I hope we can do this and pass an Andean trade bill. I believe the vote on it will be 90-plus votes in favor of it. If we are successful in passing this, then we can continue to wrestle with and hopefully pass trade promotion authority and trade adjustment assistance. Correct me if I am wrong, this in no way would keep us from passing trade promotion and trade adjustment assistance in the future.

Mr. McCAIN. It would have no impact.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I understand the frustration of the Senator from Arizona. Magnify that 1,000 percent for the majority leader. We have a bill on the floor——

Mr. LOTT. Regular order, Mr. President.

Mr. REID. The underlying vehicle is the Andean trade bill. I think we should move on to the trade bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

CONSTITUTIONAL RESPONSIBILITIES OWED TO THE JUDICIAL BRANCH

Mr. WARNER. Mr. President, Article II, Section 2 of the Constitution provides that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States . . . .''

The debate before us today involves this clause of the Constitution, and this debate is a very important one. We should put aside partisanship and examine the very roots of our Republic to determine the respective responsibilities of the three branches of our government.

The magnificence of the ''Great Experiment,'' a term used by the skeptics of the work of our founding fathers, is what has enabled our Republic to stand today, after over 200 years, as the longest surviving democratic form of government still in existence.

But, the survival of that ''Great Experiment'' is dependent upon the continuous fulfillment of the balanced, individual responsibilities of the three branches of our government.

Let's reflect on the historical roots of the ''advice and consent'' clause.

During the Constitutional Convention, the Framers labored extensively over this clause, deferring a final decision on how to select federal judges for several months.

Some of the Framers argued that the President should have total authority to choose the members of the Judiciary. Others thought that both the House of Representatives and the Senate should be involved in providing ''advice and consent.''

Ultimately, a compromise plan, put forth by James Madison, won the day—where the President would nominate judges and only the Senate would render ''advice and consent.''

Such a process is entirely consistent with the system of checks and balances that the Framers carefully placed throughout the Constitution. Presidents select those who should serve on the Judiciary, thereby providing a philosophical composition in the judicial branch. However, the Senate has a ''check'' on the President because it is the final arbiter with respect to a nominee.

Throughout the debates of the Constitutional Convention, there appears to have been little debate on what factors the Senate should actually use when evaluating presidential nominees. It is likely that this silence was intentional.

The first test case arose with our First President! Soon after the Constitution was ratified it became clear that the Senate did not take its ''advice and consent'' role as one of simply rubber-stamping judicial nominees. This became evident when the Senate rejected a nomination put forward by our first President and a founding father, President George Washington.

President Washington nominated John Rutledge to serve on the U.S. Supreme Court. And, even though Mr. Rutledge had previously served as a delegate to the Constitutional Convention, the Senate rejected his nomination. It is interesting to note that many of those Senators who voted against the Rutledge nomination were also delegates to the Constitutional Convention.

From the earliest days of our Republic, the nomination process has worked. We must now reconcile and make sure it continues to work.

Based on history, it is clear to me that the Senate's role in the confirmation process is more than just a mere rubber-stamp of a President's nomination; but it is the Senate's Constitutional responsibility to render ''advice and consent'' after a fair process of evaluating a President's nominee.

This process illustrates well how our three branches of government are interconnected yet independent.

Thomas Jefferson remarked on the independence of our three branches of government by stating, ''The leading principle of our Constitution is the independence of the Legislature, Executive, and Judiciary of Each other.''

But, I would add that each branch of government must perform its respective responsibilities in a fair and timely manner to ensure that the three branches remain independent.

In my view, we must ask ourselves, is the current Senate posture of the nomination and ''advice and consent'' process during the early days of the Bush

Administration consistent with our country's experience over the last 200 plus years since our Constitution was ratified? That is for each Senator to decide.

Currently, more than 10 percent of Federal judgeships are vacant. And, for the 12 Circuit Court of Appeals, nearly 20 percent of the seats are vacant. Is our federal Judiciary able to fulfill its obligations? That is for each Senator to decide.

In day to day court workloads, judicial vacancies result in each of the active and senior status judges having a greater caseload. This, in turn, often results in a longer time period for cases to be decided.

The ultimate effect is that Americans who have turned to the court system seeking justice in both civil and criminal matters are left waiting for a resolution of their case. And, all too often, justice delayed is justice denied.

Our current Chief Justice of the Supreme Court, Judge William Rehnquist, has expressed his views on this subject several times during both the Clinton and Bush Administrations. Judge Rehnquist recently reiterated remarks he made first in 1997 when he stated, ''the President should nominate candidates with reasonable promptness, and the Senate should act within a reasonable time to confirm or reject them. Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote.''

I am in complete agreement with the Chief Judge. We must act in a timely fashion to fill judicial vacancies.

Mr. DASCHLE. Mr. President, our friends on the other side of the aisle are right about one thing: it is important to fill vacancies on the Federal bench in a timely manner.

In his remarks last week, President Bush cited Chief Justice Rehnquist's report about the alarming number of vacancies in the federal courts.

He's right. Let me read some of Chief Justice Rehnquist's report: ''vacancies cannot remain at such high levels indefinitely without eroding the quality of justice.''

Except that's from the report he wrote in 1997.

Democrats, independent-minded observers, and the Chief Justice of the United States Supreme Court have all raised concerns about the judicial vacancy crisis for years.

But our Republican colleagues never seemed to hear those concerns when they ran the Senate. The fact that they now recognize the seriousness of the situation is—I suppose—progress.

It appears, however, that there are some facts on which they are still unclear. I'd like to take a few minutes to set the record straight:

First, the judicial crisis developed when Republicans ran the Senate.

Under Republicans, total court vacancies rose by 75 percent—from 63 at the beginning of 1995 to 110 by the time Democrats took control of the Senate.

Circuit court vacancies more than doubled—from 16 to 33.

As the vacancy rate was skyrocketing, more than half—56 percent—of President Clinton's circuit nominees in 1999 and 2000 never received a hearing or a vote.

Second, Democrats have reduced the number of vacancies.

The judicial nominations process has significantly improved under Democratic leadership.

As of this afternoon, in only 10 months, the Democratically controlled Senate has confirmed 56 nominees—more judicial nominees than the Republican-controlled Senate confirmed for President Reagan in his first 12 months in office.

Our 10-month number is also greater than the number of judicial nominations confirmed in four of the 6 years Republicans controlled the Senate during the Clinton administration.

It also exceeds the average number of judicial nominees the Republicans confirmed during the time they controlled the Senate—when, from 1995–2001, confirmations averaged only 38 per year.

But Democrats aren't just improving the numbers, we're improving the nomination process. Under Senator LEAHY's stewardship, the process is now faster, fairer—and more productive.

Senator LEAHY has restored a steady pace to the judicial nominations process by holding regular hearings and giving nominees a vote in committee. Despite the chaos of September 11 and the disruption caused by anthrax, the Judiciary Committee has held 15 hearings involving 48 judicial nominations in the past 10 months, and is planning an additional hearing this week to consider another 7 nominations.

In addition to increasing the total number of hearings, Senator LEAHY is reducing the amount of time it takes to confirm a nomination. The Judiciary Committee has been able to confirm nominations, on average, within 86 days after a nominee was eligible for a hearing. This is more than twice as fast as the confirmation process under the most recent Republican-controlled Senate.

Senator LEAHY has also made the process more fair.

Unlike our Republican colleagues, who would sit on nominations for years—many never receiving a hearing, Senator LEAHY has ensured that President Bush's judicial nominees are treated evenhandedly. Senator LEAHY has also eliminated the practice of secret holds within the judiciary, that were often used to delay and defeat nominees for political reasons.

Third, the confirmation of judges is part of a constitutional obligation we take very seriously.

Democrats have been clear: We will make the process move more fairly, and more quickly—but we will not abdicate our constitutional responsibility to advise and consent.

I believe the President has a right to appoint to his cabinet and administration men and women with whom he is personally and ideologically comfortable.

But Federal judges and Supreme Court justices do not serve at the pleasure of the President. Their term does not end when the President leaves office. These are lifetime positions. Their decisions will have profound consequences for years, possible decades, to come. For that reason, they deserve special scrutiny. The Constitution requires the Senate to evaluate the President's judicial nominees, nominees, offer advice, and grant—or withhold—its consent.

Fourth, I'm concerned that the real issue isn't numbers, but using Judiciary to achieve a political agenda.

Appointing judges that are out of the mainstream is a way that the right-wing can achieve through the judiciary what they can't get through Congress, the President, or any other office represented by those who reflect the will of the people, and need to stand for election before them.

Most Americans simply don't want to see a judiciary that will turn back the clock on decades of progress for civil rights, women's rights, workers rights, and the environment. Most of us don't either.

Senator LOTT and Senator NICKLES both hinted after Judge Pickering's nomination was defeated in committee that they would find ways to retaliate. The irony is: By shutting down the Senate today, they are preventing the Senate from doing the very thing they claim to want.

Right now, their tactics are preventing the Judiciary Committee from holding hearings on 4 of the President's nominees. And last August they wouldn't give us consent to carry pending nominees over the recess—further slowing the process. Amazingly, their judges are falling victim to their own tactics.

There are 77 days left in this Congress—only 46 days if you don't include Mondays and Fridays.

Shutting down the Senate at a time when there are so many major questions facing our nation, and so few working days left in this Congress—is not the way to achieve their stated goal of confirming judges.

When all the facts are thoroughly examined and honest comparisons are made, it is clear that the judicial nominations process has significantly improved under Senator LEAHY'S stewardship, and Democratic leadership.

There are real differences between our parties on many issues.

We have shown time and time again, on issue after issue, that we can work through those differences for the good of the nation.

Today, I ask our Republican friends to join with us in helping—and not obstructing—the Senate as we work to meet the needs of the American people, and perform our constitutional obligation regarding federal judges.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ANDEAN TRADE PREFERENCE EXPANSION ACT—Resumed

Mr. LOTT. What is the pending business?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

Pending:

Daschle amendment No. 3386, in the nature of a substitute.

The PRESIDING OFFICER. The Republican leader

AMENDMENT NO. 3399

Mr. LOTT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3399.

Mr. LOTT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

CLOTURE MOTION

Mr. LOTT. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Lott amendment:

Trent Lott, Don Nickles, Phil Gramm, Chuck Grassley, Rick Santorum, Mitch McConnell, Bill Frist, Craig Thomas, Judd Gregg, Frank H. Murkowski, Jon Kyl, Michael D. Crapo, James M. Inhofe, Thad Cochran, Chuck Hagel, Pat Roberts.

Mr. LOTT. Mr. President, the Daschle amendment——

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LOTT. Mr. President, our goal this afternoon is to get to a process or an agreement that allows the Senate to deal with the very important issues pending before the Senate: trade promotion authority, the Andean Trade Preservation Act, the GSP, as well as the trade adjustment assistance. These are four very big issues, very important for our country and other countries—in the case of the Andean area—and for the workers of this country.

The way it has been put together, it is very difficult to work through all of these issues and get a result. Serious efforts are underway to see if we can achieve an agreement that produces a result.

We also have to deal with a process issue, how to make that happen. A few moments ago, I filed a first-degree amendment to the Andean Trade Preference Act and filed cloture. I think that is the way to proceed. I think we need a showing of who wants to get trade promotion authority and how we will move this to a conclusion. I want to do that and I know Senator DASCHLE wants to do that, too—find a way to get to conclusion and produce a result.

I was within my rights to seek that recognition and offer that amendment. I did so in good faith with the recognition that if I didn't, some further motion or procedure might have been offered by Senator DASCHLE or Senator REID.

Having said that, Senator REID and Senator NICKLES and others were in the Chamber. They had an agreement on how to proceed, and they felt this was not fair under the understanding that had been worked out. I always try to make sure we play above board and fair with everybody. Senator REID has always been fair with both sides, and he felt this was not the right way to proceed at this point.

After a lot of discussion, I will move to vitiate that action. But I do want to emphasize—and then I presume Senator DASCHLE may announce we would have a period of further discussion as we continue to work on this issue—I do think this is the correct way to proceed. We should not get off the trade legislation and go to any other issue. We are on the verge of beginning to make progress. If we let up, I think the momentum will stop.

I had to explain what happened and why I am doing this. I have heard stories from the past of how Senators have come to the aid of Senators on the other side of the aisle saying, no, this was not the fair way to do it, even if it might have appeared to be fair. We want to always try to do that with each other.

AMENDMENT NO. 3399 WITHDRAWN

Therefore, I ask to vitiate the cloture motion I filed and withdraw the amendment I filed.

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

The amendment (No. 3399) was withdrawn.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I thank the distinguished Republican leader for his understanding and his willingness to act in good faith. I appreciate very much the explanation that he has made. I know it was not his intention and he was not aware of the circumstances that had been agreed to prior to the time he came to the floor. We certainly know how these things work and appreciate his willingness to rescind his actions.

There are a number of Senators who would want to be heard on issues that are important to them. As we continue to await further word about the progress of the discussions and negotiations underway, I see no reason we cannot continue to allow the Senate to proceed as if in morning business.

I ask unanimous consent the Senate proceed as in morning business under the arrangements previously authorized in the Senate for a period not to exceed 90 minutes.

Mr. MCCAIN. Reserving the right to object, I will not object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. The majority leader understands the point I was trying to make. Next week at this time, the Andean Trade Preference Act expires and back tariffs will be levied on four impoverished countries, one which is experiencing a revolution. The majority leader does understand the reason for the cloture motion, but I understand there will be an objection if we wanted to move to ATPA, and that is why the Republican leader filed the cloture motion.

I hope the majority leader understands this is an issue that is pressing in time. We need to move forward with it. That may require a cloture motion either by the majority leader or the Republican leader.

I do not object.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask for 2 minutes prior to Senator BYRD.

Mr. DASCHLE. I ask unanimous consent my consent request be amended in that fashion.

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

Mr. DASCHLE. Mr. President, again I ask unanimous consent the Senate be in morning business for 90 minutes and accommodate Senator REID's request for 2 minutes prior to the time Senator BYRD is recognized.

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

ATPA

Mr. DASCHLE. Let me respond briefly to the Senator from Arizona. Nobody wants ATPA passed more than I do. I have attempted in many different ways over the last several weeks to

find the right formula to bring this about. I have talked about it, literally, for months. I will work with the Senator from Arizona and others. We are very aware of the May 16 deadline. I am very hopeful we can find a way with which to accommodate that deadline and make sure this job can be done.

We are sensitive to the tremendous economic repercussions that will result if we are not successful. The stakes get higher with each passing hour, which is why I have been frustrated in my effort to move the process along all week.

We spent a lot of time on the farm bill. We spent a lot of time waiting for some sort of negotiation when I think sometimes the best thing to do is just offer amendments. That is what we do in the Senate if there is a disagreement: At some point you offer an amendment, have a vote, and move on to the next amendment.

There are those in the Senate who want the package to be just so, prior to the time they even allow us to move forward on a package.

We will continue to work with those who have been in negotiation. I hope we can resolve this matter soon.

Mr. LOTT. Will the Senator yield?

Mr. DASCHLE. I yield.

Mr. LOTT. We did vitiate the cloture, withdraw the first-degree amendment, but I ask that we consider filing cloture on the underlying amendment, just ATPA.

My cloture and amendment had been both trade promotion and Andean trade. If we file cloture on just the Andean Trade Preservation Act, that would ripen Monday night or Tuesday if we got an agreement, and it would at least guarantee we would be able to get that issue resolved and hopefully sent to the President by Tuesday or Wednesday, thus dealing with this problem that Senator MCCAIN addresses. If we don't, we are going to have this deadline that we are facing.

I say this in a bipartisan, nonpartisan spirit. It would be one way to make sure we get a vote on that. We could still get an agreement and vitiate if we had to and get the trade promotion authority and trade assistance also.

I might say that I understand we need to try to make progress. But we have only spent about 12 hours on this bill and really only one serious amendment has been offered.

I know you, Senator DASCHLE, would have liked to have had more amendments offered. Certainly we assume that will occur, perhaps even still. But we have not spent much time on the trade bill itself. I would address the question—urge you to consider, even today, within the next hour, filing cloture on the underlying ATPA. We could still get progress on these other bills without prejudicing this particular provision.

That is the kind of thing I think Senator MCCAIN would like to see us do. He is pressing me to file cloture on the underlying Andean Trade Preference Expansion Act. Would you consider that as we proceed this afternoon?

Mr. DASCHLE. Mr. President, we are trying to make the most of what few days we have before the Memorial Day recess. That is an option. We have entertained it in the past. We have talked about it in the past. That would mean, of course, that TAA and TPA would fall if cloture is invoked, and I am not sure we would be able to get to it again prior to the Memorial Day recess, given all the other things we have to do. But that is an option. So we will weigh that carefully and consider what other choices we have, subject to some report from our colleagues. We will continue to negotiate.

Mr. NICKLES. If my colleague will yield, I think Senator LOTT and Senator MCCAIN have a good idea. I urge you to seriously consider that. I hope it will not take cloture to pass any of the three bills. I likewise tell the majority leader, I think you will find Members on this side of the aisle—I think the majority leader has complicated his process by trying to put three bills together.

Historically, we have passed Andean trade, passed trade promotion or fast track, and we passed trade adjustment assistance—independently and overwhelmingly, usually with 70-some votes. I believe there are still 70-some votes. The Senate historically has pretty much favored free trade.

I think we would be happy to assist the majority leader to pass all three. We may have some differences, particularly on trade adjustment assistance. Maybe we will have to have a few amendments on each side. We will help you get a time agreement where we can pass all three bills by the Memorial Day recess. Maybe by separating the three bills we can accommodate the Andean countries that are in desperate shape. It would be a shame if we imposed tariffs on those poor countries, a tariff increase that they have not had for 10 years, if we do not get our work done on that bill by next week, by the 15th or 16th.

Likewise, it would be a real mistake if this Senate doesn't pass trade promotion and trade adjustment assistance, however this Senate defines it.

I tell the majority leader, I think if he breaks the three up, we could come up with time agreements and a limitation of amendments to finish all three bills.

Mr. DASCHLE. I thank the Senator from Oklahoma for his generous offer of assistance. I would love nothing more than to get time agreements.

I am told there is opposition to time agreements on both sides on each bill. As we know, given the time it takes to get through a motion to proceed if there is a filibuster, given the time it takes to get through a bill itself, procedurally, if there is a filibuster—each bill will take over a week if you did nothing more than move as expeditiously as you can given our Senate rules.

Instead of doing three sequential filibuster-cloture, filibuster-cloture, filibuster-cloture motions, we thought it might be better to do one and accommodate all the procedural impediments at once.

That may or may not prove to have been the right strategy. But, clearly, we know it will take a long time. If it is the case, we will have to take these bills up sequentially, as I am told is the case right now. Maybe time will prove Senators will reconsider and be willing to move into a time agreement, at least on ATPA.

We will try to vet that and perhaps we can move that. I think we ought to explore that possibility. But a sequential effort on each one of these will take us well into the middle of June, and I am not sure we have that kind of time.

I appreciate the Senator's interest in working with us.

Mr. NICKLES. If the Senator will yield a little further, I will be happy to shop it on our side. I do happen to think there are overwhelming majorities—probably on both sides of the aisle. We passed TPA out of the Finance Committee 18 to 3. Andean trade passed unanimously, I believe, in the Finance Committee. Trade adjustment assistance was considered and, frankly, the trade adjustment assistance that is in this bill never passed committee and some of us object to that. We are willing to have amendments to it. We are willing to find out where the votes are, if that is the way we have to go. Hopefully, some of the negotiations that are taking place today can help solve some of those problems. But we all know we need to move forward on all three pieces of legislation. I urge our colleagues, let's do it.

I do question the wisdom of putting all three together. Historically—I remember Senator BYRD and I having a big debate on line-item veto and I used to say we should have a bill veto. Is it fair to the President of the United States to submit all three bills, each different, and say take it all or leave it all? He loses his Executive power or ability to sign or veto individual pieces of legislation.

I hope we will consider trying to expedite this, come up with time agreements, pass all three bills, and let's see if we can get all three done by the Memorial Day break.

Mr. DASCHLE. If the distinguished Senator from Oklahoma will be prepared to work with us on his side, we will see what prospects there are for doing something like that on one or more of the bills in the Senate in the next day.

I am happy to yield to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I think it sounds good to have some cooperation with respect to time. But there is frustration on all sides with respect to this legislation. The issue of trade promotion authority, for example, came to

the floor. Then we had to go off, I believe for 12 hours, debating the Agriculture conference report, which took the better part of 2 full days.

We have now, I believe, voted on only one amendment on trade promotion authority. That was the amendment I offered. And that was held over. We couldn't clear it after we had a tabling amendment. That was held over several days in order to clear that.

Senator DAYTON has an amendment. I have two additional amendments. I know other colleagues have amendments to trade promotion authority, but we have not been able to get at that, and my understanding was we had people on the floor on the other side saying they were not going to let us do anything until all of this gets negotiated to some successful conclusion.

I think the way to legislate, I say to the majority leader, would be to allow us to proceed with the amendments. If there are those on the floor who are blocking it, perhaps the Senator from Oklahoma and the Senator from Mississippi, if it is on your side, might help us remove that block and let us get to the amendments and have votes on the amendments.

Trade promotion authority is a reasonably controversial measure. People will have a fair number of amendments, but we have had one so far. It seems to me we ought to get at them and have votes on them.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. LOTT. I will respond to that. I think that is what we should do. That is what I just did; I offered an amendment. But because of concern about the fact we were in morning business, I withdrew it.

I think that is the way to go. Hopefully, maybe we will come to an agreement this afternoon that will allow us to move forward on all three bills. If we do not, then what I urge we do is stay on the trade bill, have amendments, and go forward.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. DASCHLE. Senator BYRD informed me, while he intended to speak as in morning business today, he is going to postpone his speech on Mother's Day until tomorrow. So the floor is open, I notify all Senators.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. While the leaders are still on the floor, especially the Republican leader, I want everyone to know that what he did was entirely within his rights. What he did not know when he came on the floor is my counterpart, Senator NICKLES, and I had an agreement. The majority leader had asked I keep us in a quorum call. That is what I intended to do.

What Senator LOTT did was in keeping with the rules of the Senate. What he did following, to vitiate his request, is not in the rules of the Senate. He did that because of the goodness of his heart, and I appreciate that very much. We have to work here, recognizing that no matter in what situation you may find yourself, it may not be one of total understanding at the time you do it. I appreciate very much Senator LOTT withdrawing the cloture motion. I also appreciate his withdrawing the amendment. He did not have to do that. No one could have forced him to do that. We could have gotten into a procedural situation where we would move to table his amendment and things of that nature, but that would not have gotten us to the goal we wanted.

I also express my appreciation to my friend from Oklahoma who expressed to the Republican leader what the arrangement was he and I had.

Of course, I appreciate very much the majority leader working his way through this. I think it will be better for us all that we approach it in this manner.

The PRESIDING OFFICER. The Senator from Pennsylvania.

JUDICIAL NOMINATIONS

Mr. SANTORUM. Mr. President, I thank Senator BYRD. He came over to me a few minutes ago. He was in line to take the next slot, and I appreciate his willingness to give me the opportunity to speak.

I am here on the anniversary of the President's first nominations to the circuit court to, once again, focus the Senate on what really is a great obstruction of justice that is occurring as a result of the actions within the Judiciary Committee.

We have seen the first 11 nominees the President put up for the circuit court—which is the appellate court in this country at the Federal level, and then you have the Supreme Court, obviously. We have 11 nominees the President put forward. Three were moved. But they were three holdovers from the prior administration. The first original, if you will, Bush nominees have not even had a hearing. If they were eight people who had very little to account for, if they were people who were not considered well qualified, if they were people who had clouds hanging over their nominations, that would be one thing. But not one of them has received anything but well qualified, and the vast majority were well qualified by Senator LEAHY's and the Judiciary Committee's standard, which is the American Bar Association, which is not necessarily friendly to Republican nominees for the court.

We have a situation where we have preeminent jurists and litigators who are being held in committee for a year without a hearing, and without explanation. That is sort of the remarkable thing throughout this entire discussion. There is no explanation as to why any one of these nominees is being held up.

We haven't had any discussion, to my knowledge, on the floor or in the press as to the specific reason any one of these nominees has been held back. There is no cloud that I am aware of. It is simply stopping the President's judicial nominees, and stopping qualified jurists from serving.

These are people who have been nominated, and when you are nominated for a position such as this—the Presiding Officer knows; he was Governor—in State office or Federal office, they have to begin to sort of unwind their affairs. They have to begin the process of setting themselves up, because who knows how quickly they could be considered and moved through the Senate?

In the case of Nebraska, I guess there is one house in which they go through in the process.

We have eight people of impeccable integrity who began that process a year ago. Where are they? They are hanging out there. Their lives are in limbo. That is not fair to them. It is not fair to the people who are not getting justice and not having their cases heard on appeal, or are having long delays in getting the resolution of their cases.

That is not fair either. That impacts the administration of justice, particularly on the civil side, which tends to suffer. We are getting criminal cases through because they are a high priority. But you have people whose lives are almost in limbo because they are not getting the quickest administration of justice that they deserve in our court system.

I want to talk about one particular nominee. He is from Pennsylvania. I will give you sort of the rundown of where we are in Pennsylvania.

We had 11 openings on the district court level in Pennsylvania. We have two circuit nominees who are Third Circuit nominees—who are sort of Pennsylvanian, assigned to Pennsylvania in this informal agreement we have across the country. One of the nominees for the circuit court—the only nominee so far, because the other circuit vacancy just occurred a few weeks ago—is Judge D. Brookes Smith. Judge Smith is the present judge of the Western District in Pennsylvania. He is a very distinguished jurist. He has been on the court for over 10 years and has served on the Common Pleas Court in Blair County and Altoona. But he is from Altoona. He is from just an impeccable law firm and practiced before he was judge. He has great reputation as a common pleas court judge in Pennsylvania, and now as a district court judge.

Again, he has a flawless reputation. He is a man of highest integrity. He is rated well qualified unanimously by the ABA. Thankfully, we had a hearing on Judge Smith. But that hearing was roughly 3 months ago. Judge Smith continues to be held in committee. Again, if you look at what I said before about your life being held in limbo,

here is someone who has already had a hearing and is being held for months without being moved through the process.

Are there serious allegations about any actions Judge Smith has taken while he has been a member of the Western District of Pennsylvania? Are there any decisions out there that have been seriously attacked? The answer is no. There is no ''gotcha'' case, or line of cases, or opinions Judge Smith has offered that has caused any problems.

The only issue I am aware of with respect to Judge Smith is that he belonged to a rod and gun club in Pennsylvania. We are very proud of our sportsmen activities in Pennsylvania. We are a great hunting and fishing State. He belonged to the Spruce Creek Rod and Gun Club.

Some of you who can think 20-odd years ago and of Spruce Creek, you think of Jimmy Carter. That is where Jimmy Carter used to go. You may remember the incident about the rabbit on the boat. That was in Spruce Creek.

Judge Smith was an avid fisherman and someone who belonged to this club for years, and belonged to it when he was confirmed as a judge in the first Bush administration.

Comments were made that this club did not allow women members. They allow women to go to the club and participate in activities, but they don't allow them to be voting members of the club. When asked about that, Judge Smith said he would try to change that policy.

There is a woman who is a county commissioner who served with him when he was a common pleas judge in Blair County who is a member of NOW, a Democrat, who came out and said she knew of nobody who had done more to help women and to promote women in the legal profession than Judge Smith—he has an impeccable record on women's issues—and the promotion of women within the legal system and the court system.

We had five litigators come to Washington, DC, most of whom were Democrats, and all of them practiced in front of Judge Smith. They went through story after story about how he, unlike, unfortunately, some other members of the bench, treated women with particular dignity and respect and was very accommodating to some of their concerns. One of them happened to be pregnant during the trial. He was very accommodating to her particular needs.

So he has a great record.

What is NOW saying? They opposed Judge Smith because he belonged to a gun club that didn't permit women members. It permitted women on the premises. It permitted women to participate in their activities. But it did not permit them to be members.

Judge Smith during his initial confirmation said he would go back and try to change that. He did. Every time there was a meeting and the bylaws were reviewed, Judge Smith attempted to change it. He tried I think four or five times. When he felt that he could no longer stay in the club because he didn't see any hope that in fact they would change that policy, he left.

I will make the argument against NOW's position—that he stayed there after he had been made aware of that and he should have left right away. Had he left right away, there would have been no chance that the club would have changed. Judge Smith did stay in there to fight to change it.

If you wanted to argue anything, you could argue that Judge Smith should be faulted for not still being in the club trying to change it. By walking away from the club, you could make the argument that he walked away from a fight he shouldn't have walked away from. That is not their argument. The argument is he shouldn't have fought in the first place, he should have just gotten up and left.

That is not how we change things in America. We change things by standing up for principles and fighting for them. And Judge Smith fought for women membership. And now, because he did, he is not qualified to be a Federal appeals court judge?

He has been a judge for over 15 years. They have looked at all his cases. There are no complaints about any of the cases. The reason they oppose him is because he stayed in a gun club too long, fighting for allowing women to become members. That is the great sin. That is the reason why. Although we will have no admission of this, so far, publicly, I am told the reason Judge Smith is still in committee is because of that—a man who has incredible credentials, a man who has been a fighter for women in the legal profession, a man who has fought in the ''Old Boys Club'' to admit women as members.

We are saying now that he should not be elevated to the third circuit because he fought for women. How remarkable a place this can be sometimes. How remarkable a place this can be. I would suspect that maybe had he quit, they would have come back and argued: See, he quit. He should have stayed and fought. And they would oppose him for that reason.

This is wrong. This is a man of incredible integrity, terrific credentials, great judicial temperament, who is scholarly, gentlemanly, and he is being subjected to being called anti-women. Even though he has staked out, in his judgeship in the Common Pleas in Blair County, in his judgeship in the Western District, and now as one of the President's nominees, that one of his highest priorities has always been the promotion of women in the court, he has been targeted as anti-women.

This is wrong. This is wrong. This is what is going on here. These are the attacks that are leveled at people who want to serve.

His nomination is being held in committee, and has been for months. It is wrong. This is a man who has worked diligently for women. We had lawyer after lawyer after lawyer from the Western District come here, the Women's Bar Association, supporting Judge Smith. We have not heard anybody from the Western District, who has appeared before Judge Smith, who is a woman saying anything negative. It is just the opposite. I received letter after letter in support of Judge Smith.

So you say: Well, that seems unfair. Yes, it is. If you were Judge Smith, imagine how you would be dealing with this. This is a human being. I know we all put these charts up in the Chamber, and we show the numbers—such and such percent get through, and such and such do not—but we are talking about a human being who has dedicated his life to serve, with a particular emphasis on the inclusion of women in the legal profession.

I have to tell you, I come from western Pennsylvania. At times, I have to say that our area of the country has not always been the most progressive when it comes to promoting women to the bench. He has bucked a lot of the ''Old Boy'' network in doing what he's done for women. And this is what he gets rewarded with, these kinds of outrageous charges which are not based on fact. It is based on the fact that Judge Smith happens to be moderate to conservative.

You see, if you are anywhere right of center here, and if you are looking at the third circuit or you are looking at the sixth circuit or you are looking at any other circuit, you need not apply because we will find some reason—some outrageous, silly reason—that has nothing to do with the incredible track record that you put together through your career; we will find some bogus reason to hold you up and tar you—the politics of personal destruction on decent people who are working hard to make this country better, all for this agenda that no one will talk about. No excuse will be given.

This is one example. I am sure you heard earlier today about others. We have eight people nominated for the circuits that have been sitting out here for a year and, unlike Judge Smith, have not even been given a hearing, have not even been given the decency of presenting their credentials to the committee and saying: Evaluate me based on me, my merits, my record, my temperament, and my ability. The committee has said: No, we are not going to give you the opportunity. The President has selected you, we understand. But we don't even believe you deserve the opportunity to convince us.

Why? That is the question I keep asking. Why? Don't we have to ask ourselves why the chairman of the Judiciary Committee and the committee have decided not to even give these people the opportunity to present themselves to the committee? What are they afraid of?

Let's be very honest about this. If these eight people are that bad, if they are that ''out there,'' if they are that dangerous, if they are that destructive

to the judicial system, then it would be in your favor to bring them up here and show how bad they are, how subversive they would be to the laws of the country, how dangerous they would be to the litigants who would come to their court—but nothing.

What are you afraid of? Are you afraid if you put Miguel Estrada up there, and you listen to this articulate, brilliant, competent, well-tempered man, that this charade that you have been putting on will come collapsing down upon you? Is that what you are afraid of? That is a legitimate fear.

But what you are doing to these people, what you are doing to the litigants in this country, what you are doing to the President is wrong, it is unfair, it is unjust. If you have a case against them, present the case. Bring them before the committee. Present the case. If you don't have a case against them, then treat them justly.

These are outstanding men and women who deserve their day in court, who deserve the opportunity to present themselves to the committee and the Senate. They have earned it because they have earned the trust of the President of the United States, who has nominated them for these positions.

What are you afraid of? Or is it something even more sinister than that? I hope not.

It has been a year. It has been a year in the lives of these people that I am sure they will never forget. It has not been a year that has reflected particularly well on the Judiciary Committee or this Senate.

We have an opportunity, on this anniversary, to begin to start anew. We saw, just a few minutes ago, the two leaders have a little bump in the road. When we have bumps in the road here in the Senate—we often do—we always sort of step back and say: OK, for the good of the Senate, for the long-term health of the Senate, can't we put some of these partisan one-upmanships aside and do what is right for the Senate? Because this place will be here, God willing, much longer than we will be. What we do here does set precedent. And the precedent the Senate Judiciary Committee is setting right now is dangerous to this country, because now there will always be this precedent that we will be able to look back to and say: See, they did it. The precedent has been set. When you set a precedent, particularly a precedent that is damaging to the rights of Presidential nominees to be considered, you lower that bar, you harm the entire judicial system in the future.

We have a chance yet, before the end of this session, to fix this.

We have a chance to get a proper, a sufficient number of circuit court nominees approved by the Senate that comports with the historical precedent. It is still possible to do that. It is also possible that we won't do that. That will set a precedent here, a precedent that, unfortunately, once set will be revisited by somebody somewhere down the road. I don't know which party it will be. It may be our party; it may be your party. The point is, it is not good for this institution, and it is horrible for the country.

I understand the partisan advantage. I understand you don't like the philosophy of some of these people the President nominated. I have voted for judges whose philosophy I hated. But the President won the election. He has the right to nominate good, decent people with whom you disagree on philosophy. He has that right. If they were good, decent people who were qualified and had the proper temperament, I approved them, whether I agreed with their philosophy or not.

That is the role of the Senate. What is going on here may fundamentally change the role of the Senate for the worse. You can't think about the next election or the partisan advantage or even the set of issues we are dealing with today in America. Those sets of issues 40 years from now will be different. The precedent you set now will have a huge impact on those issues. Don't do it. Don't do it. Don't open up a hole in the precedents of the Senate that somewhere down the road will drive a truck over something you may care very deeply about. It is not the right thing to do.

You still have a chance to change it. I pray that you do.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Arizona.

Mr. KYL. Madam President, I compliment the Senator from Pennsylvania for the remarks he has just made, especially in relationship to a judge that means a lot to him, Brooks Smith, who has been nominated by the President to serve on one of our Nation's highest courts. There is no reason, as Senator SANTORUM has said, for this fine individual to be held up. It may be that for purely partisan reasons, someone will try to find a pretext such as the business about the club. I have heard that, too. But I can't believe at the end of the day anybody would actually use that, at least publicly, as a reason to oppose the nomination. There is nothing to it.

When people get so caught up in the politics of it, as the Senator from Pennsylvania has said, they begin to do things that in cool, collected thought maybe they would not ordinarily do. They get carried away and even refuse to consider a judge based upon a pretext such as this. When that kind of precedent is set, it does begin to not only demean this institution but degrade the court system and fundamentally alter the relationship between the Senate and the President and our responsibility of advise and consent to the nominees.

The Senator has made a very good general point; unfortunately, a point well taken with respect to a nominee pending before the committee, Judge Smith.

I want to make the clarifying point that it is not just the Judiciary Committee involved here. The Republican members of the Judiciary Committee, of which I am one, would very much like to move forward on Judge Smith and other nominees.

We were called by the President today to join him at the White House because today is an anniversary of sorts. There are three anniversaries today that mean something to me personally. It is my father's birthday; he is 83 years old today. It is the Attorney General's birthday, John Ashcroft, who is 60 years old today. And, unfortunately, the other reason it has meaning is, as the President reminded us, it has been exactly 1 year since he nominated some very fine individuals to serve on the circuit courts of appeals—1 year and not a single hearing on eight of these nominees, all very fine individuals.

There has been no hearing scheduled, no hearing held, let alone moving the process forward so that they could be confirmed.

I don't know of any reason any of these judges or lawyers nominated to the circuit courts should be held up. As a matter of fact, they have all been rated by the American Bar Association as ''qualified'' or ''well qualified'' to serve on the circuit court. That was, according to our Democratic colleagues, the so-called gold standard by which these candidates would be judged. So if it is to apply in these cases, then all of these individuals should be confirmed, and at a minimum, of course, the committee should begin to hold hearings on them.

Why aren't the hearings being held? It could be one of two different reasons. The first has to do with an attempt to change the standard by which we historically have judged judicial nominees.

This morning, the Senator from New York, who chairs a subcommittee of the Judiciary Committee, held a hearing in which he was very clear about his belief that ideology should play a role in the Senate's confirmation of the President's nominees. He expressed a view that nominees of President Clinton were all mainstream or mostly mainstream; whereas President Bush keeps on nominating ideological conservatives, people who, in his view, are out of the mainstream.

The Senator from New York is certainly entitled to his views. He noted, and I agreed, that he and I probably would disagree philosophically on a lot of things. He probably would call himself a liberal Democrat. I would proudly call myself a conservative Republican. We respect each other's rights to believe in what we believe and to pursue those positions. But I don't think either one of us should therefore suggest that we are the best ones to judge what a balance on the court would be. We probably would both want to shade it a little bit toward our particular point of view.

The Senator from New York says he believes it is our job as the Senate to

restore balance to the courts. I pointed out that, of course, balance is all in the eye of the beholder; that probably the President of the United States, elected by all of the people of the country, was a better judge of the mood of the country, especially a President who, by the way, has an approval rating of well over 70 percent.

When he ran for President, it was clear that if he won, he would be the person nominating the judges. As a matter of fact, Vice President Gore made a point during his campaign to warn voters that if they elected President Bush, then-Governor Bush, he would be making the nominees to the court. He was right about that. When President Bush was declared the winner, he had every right to make these nominations.

If the people are not well qualified, then the Senate should vote them down. On occasion that has happened, but it is quite rare. As the Senator from Pennsylvania pointed out, the test has been, for most of us over the years, even if you don't like the person ideologically, if that is the President's choice and the individual is otherwise well qualified, then you really ought to vote to confirm.

All of us have done that. I have swallowed hard and voted for people I didn't particularly care for and whose ideology I very definitely didn't care for. I voted for them nonetheless because I couldn't find anything wrong with them. They graduated high from their law schools. They had done a good job in a law practice or on some other bench. Even though I figured they would probably be quite ideologically liberal—and by the way, some have turned out to be ideologically liberal—I felt it was my obligation, since that was the President's choice, and there was no question about qualification, that we should approve them. That I did.

That has been the tradition in this body for a very long time. I don't think it is appropriate for us to try to define what a proper balance of ideology is and to turn down the President's nominee because of that.

I especially think it is wrong not to give them a hearing and find out. These eight nominees to the circuit court the President made exactly a year ago have never had an opportunity to come before the committee and answer any questions about their ideology.

There is a presumption that has not necessarily been backed up by reality or by facts.

I would think that, as the Senator from Pennsylvania said, if there is no reason to be afraid of these judges, then we ought to have a hearing. And if there is, I would think people would want to bring those reasons out to demonstrate why they are not qualified to sit on the bench. But, in fact, there has been no suggestion that there is a reason why any of these eight candidates are not qualified.

In fact, I don't think even most of them could be fairly characterized as somehow ideologically way out of the American mainstream. The other thing that might be offered as an excuse not to hold hearings is—and I have heard this often from my Democratic colleagues—they believe that some of the Clinton nominees for courts were not treated fairly because they were not given hearings. It is true there were a few that, for one reason or another, did not get a hearing. Of course, in the case of those nominated at the end of the last year of the Presidency, there is good reason for that because there is no time to do it. But there were still probably some who could have had a hearing and did not.

A hearing was held this morning by the Senator from New York in which four of those individuals were called to testify. And each one of them made the point that they were disappointed—actually, one had gotten a hearing but had not been confirmed. They all made the point they were disappointed and they didn't think it was fair. Two of them, particularly, I thought, made a very good point that when you get right down to it, it is very unfair for a nominee not to have a hearing. They believe that all nominees should have a hearing. That, of course, applies today as much as it applied to them. If it was wrong for them to be denied a hearing, it is just as wrong for President Bush's nominees to be denied a hearing.

The second reason that sometimes is offered up to me why President Bush's nominees are not being given a hearing or moved forward through the process for confirmation, it seems to me, is based upon a false premise; that is, in effect, saying two wrongs make a right. It is wrong not to give somebody a hearing. Some of President Clinton's nominees were not given a hearing, so we are not going to give President Bush's nominees a hearing. If it is wrong, it is wrong. If it is wrong, it should stop.

I heard one colleague say, but we need to go back and fix the wrong. To my knowledge, there is only one President who has gone back and nominated people his predecessor of another party had nominated who were not confirmed. President Bush has actually gone the extra step and renominated two of the Clinton nominees who have been confirmed already by this body. To my knowledge, President Clinton didn't renominate any of the 40-some—I believe that is the correct number—nominees pending at the end of the Bush 41 administration. President Bush 43 has done that.

So I think it is wrong to say we are not going to have a hearing on these individuals because some other candidates didn't get a hearing and that was wrong. Again, two wrongs don't make a right.

Today, President Bush told us that he called upon the Senate, and specifically the Senate Judiciary Committee, to move forward with these nominees. He told us he thought it was very unfair to the fine people he had nominated that their lives, in effect, are in limbo at the moment because they don't know whether they are going to get a hearing, whether they are going to be confirmed. In the meantime, their law practices are suffering, if they are still in the practice of law. Their reputations are hanging in the balance.

Let me tell you a little bit about a couple of them. Of these eight nominees who have languished before the committee and have not had a hearing, one is John Roberts, a nominee to the DC Circuit Court of Appeals. He is one of the country's leading appellate lawyers. He has argued 36 cases before the Supreme Court. He served as Deputy Solicitor General. He has a great track record. There is nothing wrong with this nominee. He is one of the smartest people and one of the most experienced people we could put on the DC Circuit Court. Nobody denies that. So why hasn't he had a hearing? Why?

You can cite all kinds of statistics about how many Clinton nominees were approved and this and that. But when you get right down to it, there is absolutely no reason this fine man hasn't had a hearing now in a year.

Miguel Estrada has been nominated to the DC Circuit and he has a great story to tell. He would be the first Hispanic ever to serve on the DC Circuit. He has argued 15 cases before the U.S. Supreme Court. By the way, this is a big deal for a lawyer to argue before the Supreme Court. I have had three cases there in my law career, and it is a great honor for a lawyer. When you can say you have argued 15 cases—and I argued 1—and when you can say you argued 36 cases, that is something very few lawyers have ever had the opportunity to do. It shows that you are an extraordinary lawyer. So why isn't Miguel Estrada even getting a hearing? He would be the first Hispanic to serve on this court. He was an Assistant U.S. Solicitor General. He was a Supreme Court law clerk. He has been a Federal prosecutor. No one can say he is not qualified.

In fact, the Bar Association unanimously recognized both of these individuals are well qualified, with their highest rating.

Justice Pricilla Owen, a nominee to the Fifth Circuit, has served on the Texas Supreme Court since 1994. Every newspaper in Texas endorsed her in her last run for reelection. So why isn't Justice Pricilla Owen even receiving a hearing? There is no reason she should not receive a hearing—or at least no fair reason.

I am told Michael McConnell is one of the most intelligent people ever to be nominated to a circuit court. He is nominated to the Tenth Circuit, and he is one of the country's leading constitutional scholars and lawyers. He has an incredible reputation for fairness, as has been illustrated by the support he has received from literally

hundreds of Democrat and Republican law professors around the country. He is clearly one of the outstanding jurists in the country. He hasn't even gotten a hearing. Why?

Jeffrey Sutton is another of the country's leading appellate lawyers. He has been nominated to the Sixth Circuit. He graduated from Ohio State Law School and was first in his class. He has argued over 20 cases before the U.S. Supreme Court and State supreme courts, and he served as solicitor of the State of Ohio.

Justice Deborah Cook, a nominee to the Sixth Circuit, has served as a justice on the Ohio Supreme Court since 1994, a State supreme court justice. She was the first woman partner in Akron's oldest law firm. This is another extraordinarily qualified individual. There is no reason for her not to have a hearing. Why hasn't this nominee even had a hearing?

Judge Dennis Shedd has been nominated to the Fourth Circuit. He was unanimously confirmed by the Senate as a Federal district judge in 1990. He is strongly supported by both home State Senators—one a Democrat and the other a Republican. In fact, he is past chief counsel to the Senate Judiciary Committee. He, too, has a great number of friends on both sides of the aisle. He would be a great judge on the circuit court. Why hasn't he even received a hearing? Is there anything wrong with him?

Judge Terrence Boyle, also nominated to the Fourth Circuit, was unanimously confirmed to be a Federal district judge in 1984. He has served all of this time, and I haven't seen anybody come forward with anything that would suggest he is not qualified. As a matter of fact, the State Democratic Party chairman supports Judge Boyle's nomination. He says that he gives everyone a fair trial.

If the former chairman of the Democratic Party in the State can endorse a Republican President's nominee to the circuit court, that is a pretty good thing. You would think partisan consideration could be laid aside. Why hasn't this individual even received a hearing?

It is not too much to ask that, after 365 days, the first step in the confirmation process be taken. A year ago, President Bush said: There are over 100 vacancies on the Federal courts causing backlogs, frustration, and delay of justice.

Today, a year later, he is asking us to begin the process of clearing up this backlog. He has done his part. Chief Justice Rehnquist recently stated that the present judicial vacancy crisis is ''alarming,'' and on behalf of the judiciary, he implored the Senate to grant prompt hearings and have up-or-down votes on these individuals.

I noted that the chairman of the Senate Judiciary Committee, Senator LEAHY, in 1998, at a time when there were 50 vacancies, said that number of vacancies represented a ''judicial vacancy crisis.'' Those were his words. Today, there are 89 vacancies. We are getting close to twice as many. It is a 10-percent vacancy rate. The Judicial Conference of the United States classified 38 of these court vacancies as judicial emergencies.

The President has 18 individuals nominated to fill a seat designated as a judicial emergency. What that means is that litigants cannot get to court. There are delays of 6 and 8 years of people not being able to get to court or have their cases resolved—in the case of some criminal cases. This is unfair to litigants, and it has been said many times that justice delayed is justice denied. There are many situations in which that is true, but that is what is happening as a result of not being able to fill these positions, especially with regard to those denominated as judicial emergencies.

The 12 regional circuit courts of appeals are the last resort, other than the Supreme Court. There are 30 vacancies, which is a 19-percent vacancy rate. Filings in the 12 regional courts of appeals reached an all-time high last year. They have increased 22 percent since 1992, and I could quote from former presidents of the American Bar Association and others who have expressed grave concern about the ability to do justice when these kinds of vacancies exist.

I will read one quotation from one letter:

> I urge you to heed President Bush's call and not as Republicans and Democrats, but as Americans. It's time for the Senate to act for the good of our judicial system.

In the Sixth Circuit Court of Appeals, half of the court is vacant. Of the 16 authorized judges, 8 stand vacant today. At a time when there were only four vacancies on that court, Chief Judge Merritt of that court wrote to the Senate Judiciary Committee and said this:

> The court is hurting badly and will not be able to keep up with its workload. Our court should not be treated in this fashion. The public's business should not be treated this way. The litigants in the Federal courts should not be treated this way. The situation in our court is rapidly deteriorating due to the fact that 25 percent of our judgeships are vacant.

Now it is 50 percent. The caseloads in Federal court can be expected to increase because of the war on terrorism and in my area because of the extraordinary amount of illegal contraband and illegal immigration coming across the border.

It is sad that the Senate cannot bring itself to even hold hearings on people who have now been sitting for a year since their nomination, individuals who by any measure are extraordinarily well qualified, are among the most qualified in the country. There is nothing wrong with them, and yet no hearing.

As of this date, the Senate has confirmed only 9 of the President's 30 circuit court nominees. By contrast, President Clinton had 42 percent of his circuit court nominees confirmed by this same date in his term.

I know we can quote statistics, and that is not really the most important issue. I quote from the Washington Post editorial of November 30 of last year:

> The Judiciary Committee chairman, Democratic Senator Patrick Leahy, has offered no reasonable justification for stalling on these nominations.

The point is, anybody can cite statistics, and most of us are pretty good lawyers and can argue the case, but at the end of the day, there is no reasonable justification for stalling on these nominations. There is no reasonable justification for stalling, unless—I think the Post might have gone on to say—you are trying to get even because of some perceived slight. That is beneath the Senate of the United States of America, and it should not be the motive of anyone, and I cannot believe it would be. This is no reason why these nominees should be denied a hearing.

Lloyd Cutler, who was President's Clinton's White House counsel, and former Congressman Mickey Edwards recently wrote an op-ed in the Washington Post. They said:

> Delay in confirming judges means justice delayed for individuals and businesses, and combined with the bitter nature of some confirmation battles, it may deter many qualified candidates from seeking Federal judgeships.

That is the unfortunate additional result of what is happening here. More and more good candidates are going to say: Why should I put myself and my family through all of this? And that is going to be a real shame.

Historically, Presidents were able to get their nominees, especially their first nominees, confirmed. President Reagan, President Bush 1, and President Clinton all enjoyed a 100-percent confirmation rate on their first 11 circuit court nominees—100 percent. All were confirmed within a year of their nomination. Remember, these eight we are talking about have not even had a hearing within a year.

The broader picture is no different. The history of the last three Presidents' first 100 nominations shows that, one, President Reagan got 97 of his first 100 judicial nominations confirmed in an average of 36 days; President George Herbert Walker Bush saw 95 of his first 100 confirmed in an average of 78 days; and President Clinton saw 97 of his first 100 confirmed in an average of 93 days. But to date, this Senate has confirmed only 52 of President Bush's first 100 nominees, and the average number of days to confirm has exploded to 150.

It is not possible to say that nothing is happening, that nothing is different, that this is no different than in previous administrations, that President Bush's nominees are being treated the same as any others. It is just not true. The statistics belie that.

Madam President, even if you do not want to talk about the statistics, I just

ask you to focus on what President Bush focused on today. He said: I nominated 11 good people a year ago today, and only 3 of them have even had the courtesy of a hearing. Would you please go back to your colleagues and implore them to treat these people fairly? He said: It is not for me; it is for the American people. He made that point a couple times. And it is for justice and for the American people. I also think that it is going to say something about the Senate.

The PRESIDING OFFICER. The time controlled by the minority in morning business has expired.

Mr. KYL. Madam President, if we do not move on these nominations, it is going to cause a significant decline in the reputation of the Senate.

The PRESIDING OFFICER. The Senator from Minnesota.

IMPORTS OF FOREIGN LUMBER AND WOOD PRODUCTS

Mr. DAYTON. I thank the Chair.

Madam President, I rise in morning business to discuss an amendment which Senator CRAIG from Idaho and I are going to offer when we resume consideration of the trade bill. I wish to take a few minutes in morning business now to talk about it.

It is an amendment that I believe will complement the intent of TPA. Others may view it differently. It is one Senator CRAIG and I developed out of our shared experiences working with and representing members of our respective States, Idaho and Minnesota, who have lost jobs, farms, and farm income because of trade policies.

I first had the opportunity to work with the Senator from Idaho when Minnesota loggers and small business owners running sawmills were being harmed seriously—some put out of business, some losing their jobs—as the result of imports of foreign lumber and wood products coming into this country and to our State. I found that Senator CRAIG had been working on these problems for years before I arrived.

I actually took his lead. He spearheaded a group of us working on the impact of sugar coming into this country on sugar beet growers in Minnesota and Idaho. I know he is someone who has a deep and abiding commitment to do what is right for the citizens of his State, as I hope I can demonstrate for the people of Minnesota.

Madam President, you probably had this experience in your State as well. The trade policies of this country which have been in effect over the last couple of decades from one Republican administration to a Democratic administration and now to a Republican administration have relatively consistently encouraged the expansion of trade, the expansion of exports upon which a lot of jobs in Minnesota depend and on which a lot of businesses in Minnesota, large and small, have successfully and profitably expanded markets across this country and the world—grain traders, commodity traders, those who provide that transportation, those who finance the businesses engaged in all of this. There are a lot of winners in Minnesota, a lot of beneficiaries through jobs, through expanding businesses, through rising stock portfolios, who say, hey, more trade is better for us, who frankly cannot even imagine why I am torn on this subject.

I find in the presentations and the discussions about trade authority, there is very seldom a recognition, even an acknowledgment, of the thousands of men and women whose jobs, whose farms, whose businesses, have been lost. And lost is not even the right word; they have really been taken away from them because of the impact of these trade policies.

So recognizing that this legislation, the so-called trade promotion authority, is a high priority for the administration, that was passed by the House of Representatives, that, as the Senator from Oklahoma said earlier, the tradition of the Senate has been to support free trade in anticipation of the probability that final legislation will pass the Senate if we get to that point, I think this amendment is a crucial addition to standing beside and with those men and women in my State anyway, and I think elsewhere across the country, who are being harmed by these policies or who will be in the future.

This amendment says if an agreement comes back that has been negotiated by trade representatives, acting at the behest of the President but not elected by the people of this country—comes back with changes in the trade remedy laws, which change—in most cases weaken—these laws that have been passed by the Congress, signed into law by the President of the United States, for the purpose of protecting those who will be harmed by these trade agreements, by illegal dumping of products—it has certainly been devastating to northeastern Minnesota, to the steelworkers there and across this country—that before those laws and their provisions can be altered or weakened or negotiated away or used as bargaining chips to get some other purpose achieved, the Congress has the authority—it is not required but it has the option—to remove those sections of the bill and put the rest of the agreement through the fast track, so-called, the procedures that will have been enacted into law, but to reserve the prerogative to review these changes, these measures, that are going to affect the kind of protection, the kind of safety net, the kind of assistance that Americans think they can depend on, cannot be taken away, cannot be altered, except by more careful consideration by the Senate and Congress.

The fact that we have 26 Members of the Senate who are cosponsors and are in support of this legislation, 13 Republicans, 13 Democrats, men and women from all different parts of the country with all different perspectives and philosophies, says to me they have had this same experience in their own States with their own constituents, that they too have recognized that these trade policies have very mixed results in their States, and particularly those who are not the beneficiaries, who are going to be the casualties of expanded trade, the increased imports which have been, I think, really tilting our trade policies out of balance in a way that is detrimental to this country.

Last year, the trade imbalance, the deficit in our trade, was $436 billion. We owed other nations $436 billion more from their imports than we received from our exports. In agriculture, well, there is still a positive trade balance, but that positive balance has been reduced. We have seen from NAFTA a flood of imports of food, of automobiles, of other manufactured goods, and our trade imbalance with Mexico has gone from being a slight positive in 1993 to a negative balance in the year 2000. Our trade balance with Canada has gone from being slightly in the negative to seriously in the negative in those 7 years.

Again, I have seen in Minnesota men and women, farmers, workers, business owners, who have lost all of that, lost their hopes, lost their livelihoods, lost their homes, lost their pensions, lost their health care as a result of this. To me, it would be unconscionable to hand that over to an unelected representative of any President, any administration—previous administration, this administration, a future administration—and allow that situation to develop where that agreement would come back and we would be told, take it or leave it, up or down; either make that decision that is going to benefit people but disregard those who are going to be most harmed.

I see the Senator from Nevada has returned, hopefully with some illumination for us. We have taken this opportunity to talk about the amendment.

Mr. REID. If the Senator will yield, the majority leader is on his way.

Mr. DAYTON. I will yield even more so when the majority leader arrives.

I thank the Senator from Idaho for his work on this. I think he has heard more about it from other parties than I have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, we are in morning business, are we not?

The PRESIDING OFFICER. That is correct.

Mr. CRAIG. I ask unanimous consent that I be allowed to speak for 15 minutes.

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

TRADE MUST BE BALANCED AND FAIR

Mr. CRAIG. Madam President, I am pleased my colleague from Minnesota,

Senator DAYTON, would speak to an amendment he and I have coauthored that has gained some concern in a variety of quarters as to the impact it might have on a trade promotion authority we might be able to pass out of the Senate. I think the Senator from Minnesota has spoken very clearly and articulately about the problems he and I and all States face—the frustration we have with blending domestic markets and international markets.

I certainly am a strong advocate of trade. I always have been. At the same time, I want it to be balanced and I want it to be fair. When there are disadvantages—and we have just seen one that this administration has spoken to in an area that is of great concern to the Senator from Minnesota and myself, and that is in timber, where Canadians had a unique advantage and were dumping in our market, and we finally spoke up, stepped up, put a duty on, and said back off, let us see if we can find an agreement. It is only with the use of the tool of trade remedy that we are now able to get the Canadians to blink and to think about possibly coming to the table to craft a fair and equitable agreement. That is exactly what our amendment would do.

Some would suggest, at least by rhetoric, it is a very damaging amendment to trade promotion authority. What I thought I would do is read a letter that 62 Members of the Senate signed and sent to the President on May 7 of last year, when in fact our trade representatives have been in Doha, Qatar, negotiating new trade agreements and the rest of the world said: You have to put your remedies on the table, you have to negotiate them down or away or we are not going to deal with you.

What we are saying is bring it all to the table, talk about it. We believe that as the legislative branch of Government that crafts public policy, we ought to have a right at some point to be able to speak to it, instead of taking it all or take none of it, which is, of course, what happens under TPA or fast-track authority.

Once a trade agreement is negotiated and if the executive branch of government in some way has negotiated down or altered trade remedy authority, and the package comes to the floor, then the pressure of the world is upon the Senate. Take it all or take none of it. Those are the only two options. Of course, the pressure is to take all of it because it is believed the advantages gained by these trade agreements are so powerful to the American economy—and in many instances they are—that we cannot deny it. Ultimately they pass, even though the administration, Democrat or Republican, may well have negotiated away some of our authority and our ability under the law.

This is what we said to the President May 7:

> We are writing to state our strong opposition to any international trade agreement that would weaken U.S. trade laws, key U.S. trade laws including antidumping law, countervailing duty law. Section 201 and section 301 are critical elements in U.S. trade policy. A wide range of agricultural and industrial sectors have successfully employed these statutes to address trade problems. Unfortunately, experience suggests that many other industries are likely to have occasion to rely upon them in future years. Each of these laws is fully consistent with U.S. obligations under the World Trade Organization and other trade agreements. Moreover, these laws actually promote free trade by countering practices that both distort trade and are condemned by international trading rules. U.S. trade law provides American workers and industries the guarantee that if the United States pursues trade liberalization, it will also protect them against unfair foreign trade practices and allow time for them to address serious import surges. They are part of a political bargain struck with Congress and the American people under which the United States has pursued market opening agreements in the past.

What does the Craig-Dayton/Dayton-Craig amendment do? It guarantees we can speak to that if those kinds of relaxations or changes in the laws come back to the Senate. And we can speak to it without dumping the entire trade agreement.

I don't think we want to do that. Ours is to promote an ever-expanding, freer trading world market. At the same time, we do not want to disadvantage our own economy, destroy our own producers' capability, damage the workhorses of this country, all in pursuit of the idealism or the goal.

We went on to say:

> Congress has made it clear its position on this matter. In draft fast-track consideration considered in 1997, both the House and Senate have included strong provisions directing trade negotiators not to weaken U.S. trade laws. Congress has restated this position in resolutions, letters, and through other matters. Unfortunately, some of our trading partners, many of which maintain serious unfair trade practices, continue to seek to weaken these laws.

Why? They want access to the largest, richest consumer market in the world. They don't want us to force them to be fair, for them to be balanced, and for them to come in in a transparent negotiated environment. That is what we are asking. That is what this amendment requires.

We went on to say:

> This may simply be postponing by those who oppose further market opening. But whatever the motive, the United States should no longer use its trade laws as bargaining chips in trade negotiations nor agree to any provision that weakens or undermines U.S. trade laws.

Now, that is May 7, 2001; 62 Senators signed, Republican and Democrat.

The amendment we bring to the floor, or hope we have the opportunity to bring to the floor, is supported equitably. We have 26 cosponsors, 13 Democrats and 13 Republicans.

What do we do? We simply create a point of order that says if the administration changes trade remedy laws, they, by the current proposal, must notice us that they have done so, and in so doing they have to come back and fully defend it. If they can convince us, then we support it. If they cannot, then a point of order rests against it. Why? Because we are the ones who craft public policy. We will not deny or walk away from our constitutional right to do so. At the same time, we are fully willing to allow our negotiators to engage all of the rest of the trading countries of the world to bring any trade agreement with any proposed changes in it because ultimately it is our job in the Senate under our constitutional form of government to accept or deny that by ratification or by voting it down.

Mr. DAYTON. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. DAYTON. There have been certain characterizations made about those who are advocates for this amendment. I ask the Senator if he believes these characterizations apply to himself: That those who support the amendment are against trade of almost any kind, that we are against the administration, we want to be obstructionists to the administration's trade policies, and that we are xenophobic, against the rest of the world. Does the Senator consider himself as fitting in any of those categories? I don't consider myself to fit into those categories.

Mr. CRAIG. I don't know how anyone serving the Senate, which is for an expanding economy, for greater revenues, for workers and for producers—and of course we will tax a little of that—would be against trade.

Clearly, the future of our economy is trading in a world market. I have watched my State of Idaho grow from an agrarian economy of agriculture, timber and mining, to a very diverse economy today of electronics, the high-tech industry, and food processing. Almost half of everything an Idaho worker produces has to sell on the world market to be profitable, to allow that person his or her job and to continue the success of that company. That is also true in Minnesota. It is also true everywhere else in the country.

What the Senator is saying and what I am saying is, in the case of Canada and softwood lumber—and they have a distinct advantage and dump in our markets, putting our people out of work—we say, wait a minute, stop; balance this field out a little bit and create fair trade by that kind of balance. That is what our amendment allows—a balancing of the process. What is most important that our amendment allows us, as policymakers, is a right to have a voice in that process. Not the take-it-or-leave-it strategy that doesn't work in the end.

I wanted to vote for NAFTA. I voted against NAFTA. Why? Extraneous environmental, extraneous labor agreements that should not have been part of a trade agreement. It had no choice. There was no flexibility. Take it or leave it.

Instead of working to create a balanced economic environment that would have allowed freer but fair and

balanced trade across the Mexican and Canadian border, we did not have that opening. That is an opening we ought to have.

What I do not want to deny, and I think the Senator from Minnesota agrees, I don't want to deny our negotiators from going to the table and being able to negotiate any agreement. They ought to have the full freedom and flexibility to put anything and everything on the table and to bring anything and everything back to us. In the end, under our constitutional form of government, we are the ones who have to make the decision. They are the ones who negotiate. That is the kind of balance that I think is important.

The PRESIDING OFFICER. The Senator from Maryland.

STEEL TRADE POLICY

Ms. MIKULSKI. Madam President, I am very concerned about some actions that were taken yesterday. Guess what. On May 8, the administration issued its statement of administration policy on the trade bill. I was looking forward to that because I thought George Bush was a friend of the American steel industry. I was absolutely shocked to read that policy and find out the administration opposes the provision to provide a safety net for American steel retirees. I was shocked because just a few months ago, President Bush stood up for steel when he issued those temporary steel tariffs, and I thought we could count on him now as we were working our way through the Trade Adjustment Act.

I was taken aback to hear the opposition to the amendment that Senator ROCKEFELLER and I have, that provides a very modest temporary bridge to help steel retirees keep their health benefits until we can work out a larger compromise.

This statement is terrible. It abandons the steelworkers. It abandons steel retirees. It is just plain wrong. We do need steel and we do need steelworkers. They are suffering at the hands of unfair trade competition, and George Bush's own administration helped us document that. That is what is so breathtaking.

On one hand we have done it, and then on the other hand we said even though steel companies are in bankruptcy because of unfair trade practices, we will not help the steelworker retirees keep their health benefits.

I am fighting for American steel, those steelworkers and those retired steelworkers who, after years of hard work, believed that by working down in the mills they would have security for their families in retirement. Those widows who sent their husband off to the mills every day, like Bethlehem Steel in my own hometown, with pride and love and a lunch bucket thought that they could count on their pension and their health care.

These are the true victims of years of unfair trade practices. Year after year, we debate trade and people say: Well, I am for fair trade. I don't know when trade gets fair. I just never know when trade is going to get fair. I have been a Member of the U.S. Congress for 25 years and I have never seen a trade deal that came out fair yet.

What are the consequences of that? People losing their pensions, people losing their health care, and people losing their jobs—this is unfair trade. People have been injured by these practices and I want to help them.

I heard the stories of my steelworkers and the retirees. I have been to the rallies. I have been to the meetings. I have been down to the union halls. I even held a hearing on this topic. I heard their stories about their fear of losing their health care and their pensions.

I met, at my hearing, Gertrude Misterka. She is a woman my own age, from my own hometown of Baltimore, who is terrified she is going to lose her health care. Her husband Charlie died 5 years ago. He worked at Bethlehem Steel for 35 years. He was loved by his wife, a friend to his fellow steelworkers. He is greatly missed.

The Misterkas thought that after 35 years of working at Bethlehem Steel, they would have a secure future. Charlie thought his wife would be taken care of even after his death. He was a good, kind guy.

Let me tell you about her. She has diabetes, high blood pressure, and asthma. She pays $78 a month for her health care premium. Even with this coverage she pays $100 monthly for her prescriptions.

But let me tell you, because of being a diabetic, because of having complications around diabetes, guess what her prescription drug bill is every year: $6,716.16. You tell me what is going to happen to her if she loses her health insurance.

Oh, yes, let's give somebody a tax credit or a voucher to go into the private market. You tell me how Gertrude, at age 65, with diabetes and all the complications, is going to go shopping. Medicare Choice has already collapsed. HMOs are not of any value to her. Nobody will take her because of her preexisting condition.

Listen, we have to do something to help her and to help all others like her. I promised that I would fight to help her keep her health care. Families who worked hard for America and spent all those years at backbreaking work should be able to count on us.

These costs will only go up as prescription drug costs continue to skyrocket.

I listened to Mrs. Misterka that day, and my heart went out to her and all the women like her. I promised her that I would fight to help current and retired steelworkers and their families—families that need a safety net so they don't lose their healthcare overnight if their companies go under; families who worked hard for America, some for nearly 50 years of back-breaking work in the hot mills and the cold mills; and families that now need our help.

America's steel industry is in crisis. American steel companies are filing for bankruptcy protection—31 since 1997, including 17 in the last year alone.

Steel mills are shutting down. In the last year, at least 40 mills and related facilities have been shut down or idled. The closed mills represent nearly one-fifth of America's steelmaking capacity.

Steelworkers are losing their jobs. Nearly 47,000 steelworkers have lost their jobs since 1998, including about 30,000 in the last year alone. We now have less than half as many steelworkers as we did in 1980. Most of these jobs are gone for good.

The cause of this crisis is well-known. Unfair foreign competition has brought American steel to its knees. Foreign steel companies are subsidized by their governments, and they dump excess steel into America's open market at fire sale prices.

This isn't rhetoric. This is fact.

Last year, the International Trade Commission unanimously found that "a substantial part of the industry is being injured by increased imports" under section 201 of the Trade Act.

As Commerce Secretary Evans said last June:

> For over 50 years, foreign governments have distorted the market through subsidies of their steel industries.

The Russian Government keeps about 1,000 unprofitable steel plants open through subsidies. South Korea has nearly doubled its production capacity since 1990 without the domestic demand to support the increase.

Millions of tons of foreign steel are sold in the United States every year below the cost of production to keep these subsidized foreign mills in business.

America's steel industry is under siege and has been under siege for decades. They've been fighting an uphill battle against competitors that don't play by the rules.

The true cost of foreign steel sold at "bargain" prices is lost American jobs, is broken promises to American workers, and threats to American security.

Why is steel important?

Steel built America, the railroads and bridges that keep our country connected, the cars and trucks and buses and trains that make our Nation move, the buildings where we live and work and shop and worship, and the ships, tanks and weapons that we need during times of war. Yet saving steel is not an exercise in nostalgia.

President Bush said:

> Steel is an important jobs issue, it is also an important national security issue.

I couldn't agree more.

The distinguished ranking member of the Appropriations Committee and of its Defense subcommittee, Senator STEVENS, recently made this point eloquently here on the Senate floor:

> During World War II, he said, 'we produced steel for the world. We produced the steel for

the allies. We rebuilt Europe. We built the tanks in the United States, and the planes and the ships that saved the world.' Could we do it again?

That is a serious question.

Bethlehem Steel's Sparrows Point plant near Baltimore recently produced the steel plate to repair the USS *Cole*. It is the only mill in America that still produces the armor plate for Navy ships.

America must never become dependent on foreign suppliers—like Russia and China—for the steel we need to defend our nation and freedom around the world. But we are headed in that direction. Already, the United States is one of the few steel-producing countries that is a net importer of steel.

America imported more than 30 million tons of steel last year.

President Bush took an important first step to help America's steel industry by imposing broad temporary tariffs on imported steel.

I was disappointed that the tariffs are 30 percent or less—phased out over the 3 years they are in effect rather than 40 percent tariffs for 4 years the steel industry and steelworkers sought. I was disappointed that the tariffs don't cover slab steel. But I appreciate the President's action under section 201.

Tariffs are an important step to give America's steel industry a chance to restructure and recover with some protection from the deluge of below-cost foreign steel, but they are not the only step needed to help American steel.

The tariffs help the industry. Now it is time to help the workers and retirees who will lose their healthcare if their companies go under.

The Daschle amendment provided a temporary 1-year extension of health benefits to qualified steel retirees.

The health care extensions for steel retirees are similar to TAA health care benefits for workers who lose their jobs as a result of trade agreements. Workers could have 2 years of health care benefits. Retirees would only have 1 year of benefits.

Just like the temporary tariffs give the companies breathing room to recover, a temporary extension of benefits give workers and retirees breathing room to find a long-term plan. It gives them time to plan—time that the workers and retirees of LTV didn't have. They lost their benefits overnight.

Supporting producers is in the national interest. The policy of our Government is to support producers when it is in the national interest. National interest means national responsibility. It is important to support farmers to make sure we have the producers to be food-independent.

I am happy to stand up for our farmers whether they are chicken producers on the Eastern Shore or corn growers in the Midwest.

We spend about $19 billion a year on farmers—$656 billion over the past 10 years. This does not include $17 billion in emergency appropriations for our farmers, and it looks like these subsidies are increasing.

Congress passed a $100 billion farm bill. The President said he will sign it. It calls for a $73 billion increase in farm subsidies over the next 6 years.

This farm bill includes a $3 billion subsidy for peanuts, up to $30,000 per farmer for livestock subsidies, and a $3 billion subsidy for cotton.

Since 1996, we have provided over $5 billion for cotton producers—three-quarters of those funds went to just 18,000 farmers. I love cotton. It is the fabric of our lives. But cotton is not more important than steel.

I have supported aid to farmers. So have most of the opponents of steel. I would ask them why. Why do farmers get bail-out after bail-out, yet our steel workers can't get this modest help?

Farmers work hard, but no harder than steelworkers. Farmers provide vital commodities. So do steelworkers. Our Nation must never be dependent on foreign food, and it must never be dependent on foreign steel.

It is not just farmers. Congress gave the airlines $15 billion after September 11 because of a national emergency. That was the right thing to do. Now, we need to stand up for steel.

Make no mistake, this is a national emergency for steel. Standing up for steel is in the national interest just like farmers, just like airlines.

I was moved by the stories of Mrs. Misterka and others at the hearing a few weeks ago as was everyone in the hearing room. I feel very close to these workers and retirees. I grew up down the road from the Beth Steel mill in Baltimore. My dad had a grocery store that he opened extra early so the steelworkers on the morning shift could come in and buy their lunch. The workers at Beth Steel weren't units of production, they were our neighbors. They are our neighbors.

And what did we know about the Bethlehem Steel Plant? It was a union job with good wages and good benefits so our neighbors could go to work, put in an honest day, and get fair pay back to raise their families and pursue the American dream.

We were all proud of our workers at Bethlehem Steel. In World War II and Vietnam they rolled gun barrels, made steel for grenades, provided steel for the shipyards that turned out Liberty ships very 3 weeks. Today, Beth Steel made the steel plates to repair the USS *Cole* after the terrorist bombing damaged the ship.

Most of Beth Steel workers are Beth Steel workers for their entire careers—30, 40, 50 years on the job, every day despite the aches and pains, the bad back, the varicose veins that age steelworkers beyond their years. Their commitment to Beth Steel is a commitment to America doing the work that needs to get done for fair pay and a secure future. The futures that once looked secure are now at risk through no fault of their own. It is time we stand up for steelworkers and help them in their time of need just like they helped America every step of the way.

This is not the end of the story. I will continue to fight for America's steel workers.

Mr. DASCHLE. Mr. President, I thank the Senator from Maryland for accommodating both Senator LOTT and me as we talk about the current circumstances involving the pending legislation.

Let me also say how much I share her point of view. Maybe I am not able to demonstrate the same passion as Senator MIKULSKI has indicated, the strength of feeling that she has about the issue involving her steelworker retirees—but I certainly share her conviction.

TRADE ADJUSTMENT ASSISTANCE AGREEMENT

Mr. DASCHLE. Mr. President, as we have been noting throughout the last several hours, a number of our colleagues have been in discussion and negotiation involving the trade adjustment assistance part of the package that is pending before us. I am very pleased to announce that an agreement has been reached. The agreement is one that involved the administration, Republicans, and Democrats who have been involved in this issue for some time now.

I might just briefly outline it. I will leave to the manager of the bill and the ranking member to discuss the matter in greater detail tomorrow morning.

As I understand it, they intend to lay down the amendment tomorrow. It will be, then, the pending business.

I also encourage Senators to offer amendments tomorrow and Monday. Senator LOTT and I have discussed the schedule. I am prepared to say as a result of this agreement that there will be no votes tomorrow, but I encourage Senators to avail themselves of the opportunity they now have, tonight or tomorrow or Monday, to offer amendments.

We will consider votes for those amendments on Monday night. We have already announced there will be a vote on a judge at 6 o'clock on Monday. We can accommodate additional votes immediately following that vote, should amendments be offered and should we be in a position, then, to dispose of them by Monday afternoon.

But the agreement has a number of components. The trade adjustment assistance for more workers—that will provide at least 65,500 new workers with trade adjustment assistance, according to the reports that I have just been given, unprecedented health care coverage for harmed workers, a 70-percent COBRA subsidy for tax credit for employers and other institutions, and benefits that match the 2-year training period. Workers would receive income assistance for at least 18 months while they were retraining for up to 2 years.

Then there also would be wage insurance for older workers as well.

There are a number of components. I will not speak at length about the specifics of the package until the agreement is ready to be presented tomorrow morning. But I hope the final formulation of the language to accommodate this agreement can be prepared so that the amendment will be provided for all colleagues tomorrow, will be offered, and will be part of the pending business as we consider amendments to this, and other amendments.

Senator LOTT and I have agreed that there would be an understanding that as this package is agreed to as it relates to those issues involving TAA, we would entertain it.

There is also an understanding that an amendment that would allow for consideration of assistance for retired steelworkers for health purposes would be entertained. And we will have that debate, and an amendment will be offered. A point of order, of course, will be made against my language. And we understand that. Once that point of order has been made, this compromise package will be offered.

I am appreciative of the work that has gone into reaching this agreement. I am disappointed, obviously, that we couldn't do more. But I am also appreciative of the fact that we have to move on and that Senators who wish to offer other legislation are entitled to do so.

I thank all of my colleagues for the effort that has been made. I hope this will now accelerate our prospects for completing this bill and allowing us to address the deadline that exists for the Andean Trade Preference Act especially.

I yield.

Mr. LOTT. Mr. President, just a couple of clarifications, and a statement of what I believe our understanding is:

First of all, I believe—we talked about this earlier—there still needs to be a point of order made against the package that was filed, and there would be enough votes to sustain that point of order.

Mr. DASCHLE. Mr. President, in response to the Republican leader, it would not be my desire to challenge the point of order.

Mr. LOTT. When the point of order is made, at that point we will move forward with the agreement we have in regard to TAA. Amendments would be in order on the rest of the underlying package, TPA, trade promotion authority, and the Andean Trade Preference Act. Is that the Senator's understanding?

Mr. DASCHLE. Mr. President, the Senator is correct.

Mr. LOTT. We have had an opportunity to quickly review the components of this compromise agreement. It has been a bipartisan effort. The administration has had input. I believe all parties are agreed to support it. There could still be amendments that would be offered, or entertained, as Senator DASCHLE said. But I believe the negotiators are prepared to defend the agreement and oppose amendments that would change that.

I want to state very firmly that it would be my intent to do the same thing. If we don't do that, we begin to pick apart the agreement, and then there is no agreement.

But I believe good work has been done. All parties have made some concessions. I think, though, that it is going to have significant assistance for those who need this transition assistance, and this will set a process up that can get us a bill.

I hope Senator DASCHLE will join me in opposing amendments that could undermine the agreement which we have.

Further, I observe that I am glad we will be having votes on Monday. I think we are going to have to do serious work. I understand Senators have amendments on both sides that will be offered. But we do need to try to finish the bill next week. I think we are going to have to look at how we are guaranteed that is done while Senators have a chance to make their case. That is a delicate balance, as is everything in the Senate. It always takes understanding and cooperation, and we are going to do that.

Senator DASCHLE and I both are going to have to provide leadership with which our entire caucuses won't always agree. But that is how business is done. I think we have done the right thing here. I intend to support this agreement and work on getting this very important legislation completed.

I yield the floor.

Mr. DASCHLE. Mr. President, I wish to make one clarification which Senator LOTT and I have already made. I said this privately, but I want to say for the record that I will oppose an amendment to improve this package or to detract from this package on trade adjustment assistance.

Obviously, we are open to consider amendments on other matters relating to the bill. But on this particular package, the one additional part of the agreement that I stated—and I want to reiterate again—is there is an understanding that Senators would be free to offer amendments having to do with steelworkers. I intend to support that amendment. I have indicated that to Senator LOTT. But that is outside of this agreement. That was part of the understanding we had as this negotiation was completed.

I wanted to make that clarification.

I will say for the record what I said privately to Senator LOTT. That amendment will be part of the overall debate on the bill, and I do intend to support it.

I yield to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I think the majority leader stated or clarified what my questions were.

As I understand it, there is a compromise but the compromise does not include a bridge to help steel retirees. But part of the conversation was that a steel retiree amendment would be in order. I believe we will have the support and votes. Senator ROCKEFELLER and I intend to offer an amendment at an appropriate time.

I also support the majority leader when he said he would not ask for a rollcall vote on the point of order.

As of yesterday, I wanted a rollcall vote, to drag it out, and raise the roof. But then it would be parliamentary tactics.

I think this topic is so serious that for the good of the Nation, and for the way I feel about my steelworkers and those who have been hurt, I don't want to engage in a time-consuming and dilatory practice.

I will not ask for a rollcall vote now that we have an assurance that we will be able to offer our amendment. I thank the leader for his advocacy on that.

I wanted to be clear that I will not ask for a rollcall on the point of order, so that we can get to the compromise and get to the amendments, and maybe get to really helping those people who have been injured by trade.

I have other comments I want to make about steel. I think I will save those for my statement later on about why they are in this crisis, why this is a national security issue, and why it is an economic security issue.

I think we are going to have a framework for proceeding on an amendment. Senator ROCKEFELLER and I will be able to offer that, if not tomorrow, over the next coming days.

I yield the floor.

Mr. LOTT. Mr. President, I don't want to dice and slice there too closely, but I want to clarify that the negotiators and I believe Senator DASCHLE and I are prepared to support the components of this compromise agreement even though not all of it was in the TAA area. Obviously, other amendments may be offered on trade promotion assistance, and we will have an opportunity to offer those. But we will defend the components of the compromise.

Mr. DASCHLE. Mr. President, that is true. I said a moment ago that it is my intention to oppose amendments—with the clarification I made on the steel issue—that would alter this agreement with all of its components. I think Senator LOTT and I are in agreement on that. That is the intention of leadership as amendments are offered.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. LOTT. Mr. President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ANDEAN TRADE PREFERENCE EXPANSION ACT—Continued

Mr. LOTT. Now, Mr. President, the pending business will be the trade bill?

The PRESIDING OFFICER. The Senator is correct. The pending business is the trade bill.

AMENDMENT NO. 3386

Mr. LOTT. Mr. President, the Daschle amendment No. 3386 exceeds the Finance Committee's allocation of budget authority and outlays for fiscal year 2002 and breaches the revenue floor for fiscal year 2002, fiscal years 2002 through 2006, and fiscal years 2002 through 2011. I raise points of order against this amendment under sections 302(f) and 311(a)(2)(b) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The point of order is well taken, and the amendment falls.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 10 minutes each.

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

FARM BILL

Mr. SPECTER. Mr. President, once again, the principal reason I have sought recognition has been to comment on my ''no'' vote on the farm bill, which was passed yesterday. Even though there are some parts of the farm bill which I liked, I have, on balance, decided to vote ''No'' because of the excessive cost which favors big corporate farmers and provides unreasonable subsidies to cotton, soybean, wheat, rice and corn.

When I voted for the farm bill in the Senate, the cost was $73.5 billion over current spending for farm programs. However, the conference report came in at $82.8 billion for a total of approximately $190 billion total over 10 years which is, simply stated, far too expensive. The United States no longer enjoys a projected surplus of $5.6 trillion over the next 10 years. In fact, there is a deficit of $130 billion expected by the end of this fiscal year.

Projecting the costs of this farm bill, it may be necessary to invade the Social Security trust fund, probably abandon plans for adequate prescription drugs for senior citizens and encroach on necessary appropriations for many priority items, including defense, education and health care. When I chaired the Appropriations Subcommittee for Labor, Health & Human Services and Education, and now in my capacity as ranking member, I have seen the great need for funding for the National Institutes of Health and other health programs as well as education and worker safety. Without enumerating many other programs, there are obviously high priorities which will be impacted by the costs of this Farm Bill.

I am especially concerned about payments to large corporate farmers. The distinguished ranking member of the Agriculture Committee, Senator LUGAR, has stated that more than $100 billion will go to farm subsidy payments over the next 10 years, with two-thirds of payments going to just 10 percent of the largest farmers who grow primarily corn, soybean, wheat, rice and cotton. This policy will likely encourage further market concentration.

This bill encourages over-production with the resultant consequence of yet lower prices leading to more subsidies. This Bill will further have an adverse impact on international trade by providing expanded and unpredictable levels of support, which increase the likelihood that the United States might breech the farm subsidy limitations it agreed to in the 1994 world trade agreements. Further, the bill's expanded supports have caused our trading partners to question our sincerity on future reductions in farm spending.

There are some portions of the bill which I favor, such as the new national dairy program, expanded Food Stamp Program, including providing food stamps to legal immigrants, and the many positive environmental and conservation measures that are very effective in Pennsylvania. I am pleased to see the new national dairy program, but it falls short of the proper legislation which is embodied in my bill, S. 1157, which would create permanent dairy compacts in the Northeast, as well as the South, Northwest and Inter-Mountain regions. While the dairy provisions will be of help, Congress is missing an opportunity to create a long-term dairy policy through the compacts which would have no cost to the taxpayers.

GUN TRAFFICKING IN AMERICA

Mr. LEVIN. Mr. President, I have spoken previously about the problem of gun trafficking. In June of 2000, the Bureau of Alcohol, Tobacco and Firearms released ''Following the Gun: Enforcing Federal Laws Against Firearms Traffickers.'' This report examined 1,500 ATF gun trafficking investigations documenting that more than 84,000 guns were diverted to the illegal market and were often later used by criminals to commit violent crimes. In addition this report showed that investigations involving gun shows and corrupt gun dealers involved the highest numbers of trafficked guns. However, some good news did come out of this report. At the time of its publication, the report concluded that ATF gun trafficking investigations led to the prosecutions of more than 1,700 defendants. Of these cases, 812 defendants were sentenced in federal court to a total of 7,420 years in prison, with an average sentence of nine years.

Gun trafficking has also been a problem in my home state of Michigan. According to Americans for Gun Safety's analysis of ATF Trace Data from 1996—1999, over 40 percent of the guns traced to crimes committed in Michigan in 1998 and 1999 originated in other states, a much higher rate than the national average. The largest number of out of state suppliers of guns to Michigan during the same period were from Ohio, Kentucky, Georgia and Alabama.

The ATF's report and these statistics demonstrate that criminals are not only gaining access to guns, but are able to smuggle them into the hands of other criminals who use them to commit violent crimes. This kind of activity can be stopped by vigorously enforcing our gun laws, providing law enforcement with more tools to crack down on gun trafficking, corrupt gun dealers and other armed criminals, and by passing sensible gun safety legislation.

FARM SECURITY AND RURAL INVESTMENT ACT OF 2002

Ms. SNOWE. Mr. President, I rise today in support of the Farm Security and Rural Development Act of 2002. While previous farm bills have provided very little for the State of Maine and the New England region, I am pleased that the conference report before us, while by no means perfect, provides for a more equitable treatment for the farmers in Maine and the Northeast. I have been in touch with the farmers and growers in Maine throughout the development of the 2002 Farm bill, and they, like I, believe the Northeast has been shortchanged in past Farm bills.

The State groups, such as the Maine Potato Board, the Maine Wild Blueberry Commission, the Maine Farm Bureau, the Maine Apple Growers, the Northeast Dairy Coalition, the Directors of the State's Farm Service Agency and Maine Rural Development, and the State Conservationist at the National Resource Conservation Service, believe that this conference report starts us down a path toward regional equity from which I would hope we will not stray in the future development of farm policies.

In addition, on May 6, Commissioner Robert Spear of the Maine Department of Agriculture wrote me similar thoughts, stating that, ''I believe it is

a good improvement over the so-called Freedom to Farm. The bill strengthens the safety net for all farmers, it more equitably distributes Federal farm dollars and it provides strong incentives to improve stewardship''. I would like to submit Commissioner Spears' entire letter for the RECORD.

First and foremost, this past year, I made a pledge to the dairy farmers of Maine that I was committed to see that the safety net they had through the now expired Northeast Interstate Dairy Compact would not be pulled out from under them. This has been my top priority for maintaining a way of life in our rural communities, and I am pleased that the Farm bill provides for a dairy program modeled on our Dairy Compact.

I have stated numerous times on this floor that I would have much preferred that the Northeast Interstate Dairy Compact be reauthorized along with the inclusion of those Northeast States that surround New England that want to join the compact to ensure that people in the region can get fresh, low-priced fluid milk in their grocery stores. In contrast to the provisions contained in the conference report, the beauty of the Northeast Dairy Compact was that it required no Federal funding.

Under the conference report, dairy farmers will get monthly payments over the next 3½ years when the price of fluid milk drops, not yearly as other commodity programs, but monthly checks that come only when prices are low, and at the very time the producers need a better cash flow to keep the farm and their dairy herds going, as the Northeast Dairy Compact provided.

I am very pleased that the dairy funding provided is retroactive to December 1, 2001, as it corresponds with the time when milk prices started to drop in New England and continue to remain low. The dairy farmers in my State will be able to count on approximately $3.2 million in added income from last December through this coming July, when it is predicted that prices may start to climb. These payments may literally save some of our small family farms as the Northeast Compact has done in past years, and I urge the USDA to get these retroactive payments out to the dairy farmers just as soon as possible.

In the future, when the price of fresh fluid milk drops below $16.94 per hundredweight, our dairy farmers will receive 45 percent of the difference of that price and the current price of the fluid milk. This will apply to the first 2.4 million pounds of production of fluid milk or for a dairy herd of around 135–140 cows, a small family farm that has forged a way of life in New England for three and four generations.

Not only has the dairy safety net been an important provision for me, but a substantial increase in funding for voluntary agriculture conservation programs has been a priority as well. Like the environmental groups I have worked with, such as Environmental Defense and the Environmental Working Group, I am disappointed that the conferees did not keep the Senate's higher funding numbers for funding to farmers to promote conservation in each of our States. But, I am pleased that there is still an 80-percent increase overall for conservation funding in this conference report.

The funds going to Maine will at the very least be quadrupled, estimated to be close to $23 million by 2005. This is very important funding for a State that is facing pressures from the environmental impacts of growth and sprawl and pressures to preserve open spaces, and also the need to conserve our water resources, in some cases to restore the habitats of the now endangered Atlantic salmon in eight Downeast rivers, a few which flow through the heart of our Maine Wild Blueberry fields where water is important to both.

The conference report also provides $1.03 billion in mandatory funding for rural development programs. Under the Rural Development Community Water Assistance Grant Program, for instance, Maine will receive $3 million of the $30 million in mandatory funding through 2011 to address drought conditions by making rural areas and small communities eligible for grant funding where there is a significant decline in quantity and quality of water.

This funding is particularly critical when considering that, like many States on the East Coast, Maine has been experiencing an extended period of drought, so the funding that helps residents deal with drought conditions is of great importance. There are, according to the Maine Emergency Management Agency, 1,700 wells that have now gone dry in the State. Total precipitation for 2001 was the driest in 108 years of precipitation monitoring in the State. Precipitation has actually been below average for 22 of the last 24 months, and while we have been helped somewhat by recent snow and rain, NOAA's National Weather Service climate forecasters see limited relief from the drought in the months to come.

Also, the Rural Water and Waste Facility Grants will provide Maine with up to $90 million over 10 years of additional resources to assist small rural communities with their drinking water and wastewater needs. Reauthorization of Rural Development Programs through 2011 will provide Maine with at least $1.5 million over 10 years for regional planning activities and technical assistance to small businesses.

Grants to non-profit organizations will be provided to finance the construction, refurbishing, and servicing of individually-owned household water well systems in rural areas for low or moderate income individuals by providing resources to community based organizations to help families with severe drinking water problems.

There are provisions to train rural firefighters and emergency personnel to assist small communities in Maine with homeland security issues, to support the rural business investment program, and $80 million for loan guarantees to provide local TV signals to rural areas.

In regard to the Rural Empowerment Zones, Rural Enterprise Communities, and Champion Communities for Direct and Guaranteed Loans for Essential Community facilities, the city of Lewiston, ME, will now be eligible to take advantage of the benefits of Community Facility Direct and Guaranteed Loan Programs. Lewiston was one of only two communities nationwide specifically named in the Farm Bill Conference Report.

For agricultural research, the conference report expands the Initiative for Future Agriculture and Foods Systems, important to the University of Maine as a real new source of research and development funding. The University has competed successfully for these grants in the past and currently has a $2 million IFAFS grant for looking at small integrated farm systems, along with being cooperators of several other IFAFS grants around the country.

For the promotion of Maine value-added agricultural products around the world, the Market Access Program will be increased to $200 million annually by 2006, which is up from the current funding of $90 million. The MAP has been invaluable in helping to advertise the quality of our Maine potatoes and wild blueberries, helping growers to market their products abroad. Another $20 million is provided to help growers of fruits and vegetables and other specialty crops combat trade barriers. In addition, $200 million is provided to purchase agriculture products for the School Lunch Program, and products listed as eligible for the program are potatoes, blueberries, and cranberries, all grown in the State.

Funding for 15 underserved States, of which Maine is one, is doubled, now set at $20 million annually for fiscal years 2003–2007 for marketing assistance, organic farming, pesticide reduction projects, and conservation assistance to help farmers sustain their working lands.

Somewhat overlooked in the conference report is a newly created title that was included in the Senate-passed bill for energy efficiency and conservation, providing $450 million for research on bio-based fuels, a Federal biofuels purchasing program and efficiency measures that can make renewable energy the cash crop for the 21st Century.

To help decrease the country's reliance on foreign oil imports, a competitive grant program will support development of biorefineries for conversion of biomass into fuels, chemicals and electricity. A biodiesel fuel education program will be funded at $1 million a year. The conference report will also establish a competitive grants program for energy audits and renewable energy

development assessments for farmers and rural small businesses.

In addition, $23 million a year from 2003 to 2007 is provided for a loan, loan-guarantee and grant program to help farmers, ranchers and rural small businesses purchase renewable energy systems and make energy efficiency improvements. Also authorized is the continuation of the Commodity Credit Corporation bioenergy program and includes animal byproducts and fat, oils and greases as eligible commodities.

A competitive grant program is established to support development of biorefineries for conversion of biomass into fuels, chemicals and electricity. A biodiesel fuel education program would be funded at $1 million a year.

Of great interest to many small forest landowners in Maine is a provision in the conference report's forestry title for $100 million in obligated funds for the Forest Lands Enhancement Program, which will provide financial and technical assistance to small, private, non-industrial forest landowners for a variety of good management practices.

The conference report also includes critical increases and updates to the nutritional safety net for America's families. The food stamp program fulfills an important need for millions of people nationwide and, thanks to the $6.3 billion in new dollars over the next 10 years for this program that is included in the conference report, countless additional needy families in Maine will be served by this program.

I am certain that I am not alone when I hear complaints from my State about the administrative difficulties and barriers inherent in Federal programs, and the food stamp program is certainly one that has been in need of simplification. The conference report allows States to simplify and reduce their reporting requirements, and allows States to use a common definition of what counts as income similar to other public assistance programs, and are two essential components for streamlining the administrative burden associated with these benefits.

Through the last farm bill established in 1996, which is better known as the Freedom to Farm Act, Congress tried to establish a new system of price and income supports for commodities that would lead to a shift toward a more market-oriented agricultural policy by gradually reducing financial support. Unfortunately, we had no crystal ball to tell us that export markets and farm prices would decline. This precipitous situation had Congress enacting four different supplemental measures from 1998 through 2001 that provided an additional $23 billion in non-disaster related farm income commodity assistance. We simply are not being fiscally responsible by continuing to do commodity farm bills on an ad hoc basis, and the conference report will hopefully prevent the need for ad hoc non-disaster supplementals in the future.

For the 2002 farm bill, I strongly supported the amendment that passed in the Senate farm bill that capped farmers' payment limitations on commodity crops at $275,000 over the House version that had payments capped at $550,000, and I am not pleased that the limitation was raised in conference to $360,000 and the language was weakened on eligibility. I do not represent a State that raises an appreciable amount of commodity crops, so I cannot speak to the funding importance for those in the heartland of the Nation and in the South, but I do know what is important for my State and everywhere I look in this Farm Bill Conference Report in the non-commodity titles, I see funding provisions that will bring opportunities to every corner of the State of Maine.

Specifically, I ask unanimous consent that a letter of support from the Maine Potato Board be printed in the RECORD, that expresses my feelings well about how important the increased funding for conservation, rural development, and the Market Access Program are to Maine. Part of what Don Flannery, executive director said was " . . there are concerns that we all have with the bill but we also believe there are many direct benefits to Maine potato growers and Maine agriculture."

On balance, I would be remiss to the agricultural and conservation communities in Maine to dismiss this bill or to dismiss President Bush's commitment to U.S. agriculture to sign the 2002 farm bill into law. I am casting a yes vote for the rural communities and for the farmers of Maine who are the backbone of the State's economy.

There being no objection, the letters was ordered to be printed in the RECORD, as follows:

MAINE POTATO BOARD,
Presque Isle, ME, May 8, 2002.

Hon. OLYMPIA J. SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: I would like to take the opportunity to express our support for the Farm Security Act of 2002 "Farm Bill". While we understand that there are issues that remain contentious and it does not include some of the programs we had hoped for, the Farms Savings Account to name one, we encourage support of the bill and vote for passage.

As I stated, there are concerns that we all have with the bill, but we also believe there are many direct benefits to Maine potato growers and Maine agriculture. If we are to develop new markets for potatoes and potatoes products, export markets will need to be a major area of development. The increased funding in the Market Access Program is a step in the right direction and potentially will benefit the potato industry in Maine. Another element of the bill that will help develop export markets is the Technical Assistance for Specialty Crops (TASC).

Conservation is an area that is of the greatest concern for all of agriculture, and this bill will provide an increase in funding to help producers in Maine continue to implement sound conservation practices. The Water Conservation Program will aid agriculture in dealing with an ever increasing demand for water to produce quality crops.

The Rural Development Title includes funding under existing programs that will be a benefit to the Maine potato industry and Maine agriculture. To remain competitive in a world market place, we must continue to develop products that meet the consumer's demands. The Value-Added Agriculture Market Development Program will do just that. It will allow Maine producers access to funds to develop value-added agriculture products to meet these demands.

Again, I hope you will support the bill; it will have a positive impact on Maine agriculture. If you should have any questions or if I can provide any additional information, please contact me at 207–769–5061.

Sincerely,

DONALD E. FLANNERY,
Executive Director.

DEPARTMENT OF AGRICULTURE,
FOOD & RURAL RESOURCES,
Augusta, ME, May 6, 2002.

Senator OLYMPIA J. SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR OLYMPIA: I want to thank you for the time and effort you and your staff spend ensuring the Federal programs and laws work for Maine farmers. This has been especially true over the past year as Congress worked on the Farm Bill.

The Farm Security and Rural Investment Act of 2002 has some flaws, primarily the lack of payment caps and the bias toward growers in the south. However the legislation provides many benefits to Maine agriculture.

Whatever disappointment Maine dairy farmers may have over losing the Compact has to be tempered by the provisions establishing the National Dairy Program. Farmers receive a monthly payment of 45 percent of the difference whenever the Class 1 price falls below $16.94. It is retroactive to December 2001. Our calculations show the retroactive clause alone will provide our farmers payments totaling about $3 million.

The bill spends $15 million annually on the Senior Farmers' Market Nutrition Program. Implemented in Maine through our Senior FarmShare it has proven wildly successful with both farmers and seniors. This year, with funds from a combination of sources, including U.S. Department of Agriculture, we are providing nearly $1 million worth of locally grown fresh fruit and vegetables to low-income elderly in Maine.

Another program with direct benefits to Maine is one I know you have worked on in the past, financial assistance for apple producers who have suffered from low market prices. The bill provides $94 million for losses in the 2000 crop year.

The $17.1 billion in conservation funds contained in the bill represents a dramatically increased commitment to the environment.

Among the highlights for Maine are $985 million for the Farmland Protection Program, a 20-fold increase. Maine leverages state money with funds from this Federal pot through the Land for Maine's Future Program to preserve open space and keep families on working farms.

The bill sets aside $50 million, to continue conservation and risk management programs authorized in the Agricultural Risk Protection Act of 2000. These programs have already provided money to farmers in Maine for irrigation projects and organic certification. Maine is one of the 15 underserved states eligible for these funds.

For Maine farmers raising specialty crops, almost all the growers in the state, the bill has a couple of benefits. It substantially increases funding for the Market Access Program, which subsidizes efforts to increase non-branded export promotion. The bill also continues the restrictions on planting fruits and vegetables on program acres, a critical

restriction for our potato farmers. They face unfair competition from Canadian growers; they don't need it from western growers who also raise program crops.

I could continue. The list I have provided you are just the highlights of the reasons I support the Farm Bill. I believe it is a good improvement over the so-called Freedom to Farm. The bill strengthens the safety net for all farmers, it more equitably distributes federal farm dollars and it provides strong incentives to improve stewardship.

Thank you and I look forward to continue working with you on issues of importance to Maine farmers.

Sincerely,

ROBERT W. SPEAR,
Commissioner.

NUCLEAR AND TERRORISM THREAT REDUCTION ACT OF 2002

Mr. SMITH of Oregon. Mr. President, I am pleased to introduce this week, with Senator MARY LANDRIEU, the Nuclear and Terrorism Threat Reduction Act of 2002 NTTRA. The NTTRA addresses one of the most serious security challenges facing the United States today: the possibility that a portion of the Russian nuclear weapons arsenal and other weapons of mass destruction (WMD) will fall into the hands of terrorists or terrorist states.

Over a decade after the end of the cold war, Russian still possesses about 95 percent of the world's nuclear weapons and materials outside of the United States. These weapons and materials are stored in over 400 locations across Russia and many are not fully secure. To understand the need to help the Russians on this front, one fact bears noting: Each year, the Russians spend approximately 2 percent of the amount that we spend to operate and secure our nuclear weapons arsenal.

The members of this body know that addressing this challenge is not a partisan issue. It is an issue of deep concern to all Americans. Early last year, a bipartisan task force led by former Sentate majority leader and current U.S. Ambassador to Japan, Howard Baker, and former White House Counsel Lloyd Cutler reached three primary conclusions: First, the most urgent unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable material in Russia can be stolen and sold to terrorists or hostile nation States and used against American troops abroad or citizens at home; second, current nonproliferation programs in the Department of Defense, Department of Energy, and related agencies have achieved impressive results thus far, but their limited mandate and funding fall short of what is required to address adequately the threat; and third, the President and the leaders of the 107th Congress face the urgent national security challenge of devising an enhanced response proportionate to the threat.

It bears repeating that these conclusions were reached months in advance of the September 11 attacks. This legislation will address each of the Baker-Cutler Task Force conclusions.

The Bush administration has devoted considerable time and effort to increase cooperation between the United States and Russia on these matters, as exemplified by U.S.-Russia cooperation in the war against terrorism, the Bush-Putin summit in November 2001, and the May 2002 U.S.-Russia summit in Russia. Also, late last year, the administration completed a thorough review of U.S. efforts to help Russia secure its nuclear and other WMD arsenal. The review concluded that, ''most U.S. programs to assist Russia in threat reduction and nonproliferation work well, are focused on priority tasks, and are well managed.'' At the time, the White House also noted: ''The President has made clear repeatedly that his administration is committed to strong, effective cooperation with Russia and the other states of the Former Soviet Union to reduce weapons of mass destruction and prevent their proliferation.'' The President wisely realizes that only through greater cooperation with Russia can we deal effectively with this problem. The NTTRA supports the President's desire to strengthen U.S.-Russia cooperative efforts.

Senator LANDRIEU and I are carrying on the tradition of Senators like Sam Nunn and RICHARD LUGAR, who along with other of our colleagues were responsible for the U.S. effort to help the Russians secure, account for, and, where possible, dispose of their nuclear weapons and other WMD. The United States must make every effort to defeat global terrorism. One of the most important actions we can take is to deny terrorists the means to kill tens of thousands, if not hundreds of thousands, of people.

The NTTRA will address this serious national security challenge in the following ways:

First, the NTTRA states that it is the policy of the United States to work cooperatively with the Russian Federation in order to prevent the diversion of weapons of mass destruction and material, including nuclear, biological and chemical weapons, as well as scientific and technical expertise necessary to design and build weapons of mass destruction. As I noted earlier, the administration's recent review of U.S.-Russia programs concluded: ''most U.S. programs to assist Russia in threat reduction and nonproliferation work well, are focused on priority tasks, and are well managed.'' The NTTRA proposals complement the increases and proposed organizational changes that the Bush administration has proposed for these programs.

The NTTRA also calls for the President to deliver to Congress, no later than 6 months after the enactment of the NTTRA, a series of recommendations on how to enhance the implementation of U.S.-Russia non-proliferation and threat reduction programs, including suggestions on how to improve and streamline the contracting and procurement practices of these programs and a list of impediments to the efficient and effective implementation of these programs.

Second, this bill addresses the shortcomings in the Russian system in accounting for nuclear warheads and weapons-grade material: The NTTRA states that it is the policy of the United States to establish with Russia comprehensive inventories and data exchanges of Russian and U.S. weapons-grade material and assembled warheads with particular attention to tactical, or ''non-strategic,'' warheads—one of the most likely weapons a terrorist organization or state would attempt to acquire—and weapons which have been removed from deployment. Only through such an accounting system will we be able to reliably say that Russian warheads and materials are sufficiently secure.

Third, the NTTRA calls for the establishment of a joint U.S.-Russia Commission on the Transition from Mutually Assured Destruction to Mutually Assured Security. The U.S. side of the Commission would be composed of private citizens who are experts in the field of U.S.-Russia strategic stability. The NTTRA also calls upon the President to make every effort to encourage the Russian Government to establish a complementary Commission that would jointly meet and discuss how to preserve strategic stability during this time of rapid and positive change in the U.S.-Russia relationship.

The United States and Russia have made great strides to reshape our countries' relationship since the end of the cold war. I am encouraged by the work of President Bush and President Putin regarding the reduction of U.S. and Russian nuclear arsenals and I have been pleased to see Russia's understanding and support of our war on terrorism. I hope that this bill will support our countries' working relationship by encouraging further movement towards arms reductions and helping build trust and expand dialogue and cooperation between our nations. This relationship is critical to protecting both Russia and the United States from nuclear terrorism.

I call upon the members of this body to join Senator LANDRIEU and me as we work against nuclear terrorism by supporting the Nuclear and Terrorism Threat Reduction Act of 2002.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in May 1996 in Lake Charles, LA. A gay man was robbed and beaten to death after being

abducted from a rest stop. The attackers, four men, said that they had gone to the rest area to ''roll a queer.''

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

DEATH OF NORMAN JOHNSON

Mr. HATCH. Mr. President, one of the finest attorneys in the country, Norman Johnson, one of the great attorneys and leaders from my home state of Utah, died last Saturday.

The loss of Norm is a personal loss to me. He has been one of my best friends. Norm was not only a fine lawyer, a fine businessman, a fine husband and father, a fine Christian, and a wonderful friend.

Norm was a partner in one of Utah's most prestigious law firms. He was one of the most informed authorities in the field of securities law and nationally recognized both before and after appointment as one of the five commissioners on the United States Security and Exchange Commission. As S.E.C. Commissioner, Norm held one of the most prestigious and high-level positions in the Federal Government. Norm served well and was highly respected. I know. I watched his service and was so proud of him.

Norm loved his wife Carol and his children, all of whom are beautiful and exemplary in their own lives. I'm sure they are very grieved at his death. He was so proud of them.

Norm was one of the most soft-spoken people I ever knew. He was kind, generous to a fault, and a friend to all.

We lived in the same neighborhood in Salt Lake City, when I was Bishop of the Salt Lake Mt. Olympus 10th Ward. We became instant friends and our friendship has endured over thirty years.

Norm courageously battled esophageal cancer for a lengthy time. I remember visiting him in the hospital many times. He beat one of the worst of all cancers and then went on to his exceptional government service. I never heard him complain and he bore his difficulties with grace and humor, but the suffering took its toll.

I loved Norm as a brother and have always and will always be a friend of his family.

His funeral is today and I deeply regret that, because of pressing Senate business and an important meeting with the President of the United States at the White House, I have not been able to attend. My beloved wife, Elaine, will be in attendance. She left for Utah this morning. As usual, Elaine will represent me well.

ADDITIONAL STATEMENTS

THE 60TH ANNIVERSARY OF THE BATTLESHIP MASSACHUSETTS

• Mr. KERRY. Mr. President, I rise today to join the people of *Massachusetts* and Navy veterans across the country in celebrating the 60th anniversary of the Battleship *Massachusetts*' commission. This historic ship, the heaviest craft ever launched from Quincy's Fore River Shipyard, served with distinction in theaters ranging from North Africa to the Marshall Islands, and I join its crew in celebrating the anniversary of this storied vessel.

The Battleship *Massachusetts* entered combat on November 8, 1942 in Operation Torch on the shores of North Africa and saw its first action on the shores off Casablanca, Morocco. In that first engagement, the 16'' shells from the *Massachusetts* helped sink two destroyers, two merchant ships, visit heavy damage to buildings along the coast, and render a dry dock inoperable. One year later the ship came back to Boston for refitting before heading off to a new assignment in the Pacific, where she would remain for the duration of the war. During its Pacific service, the *Massachusetts* engaged the enemy in the New Guinea-Solomons in the southwest, raided Japanese bases in the west, and helped invade the Marshall Islands.

As the war built to a bloody crescendo the *Massachusetts* proved itself repeatedly. Carrying its nickname of ''Big Mamie,'' the *Massachusetts* took center stage in the preliminary actions against Okinawa and Iwo Jima, shelling each island in preparation for the decisive land combat that began the final chapters of the long struggle. Together with the Third Fleet, the *Massachusetts* approached Japan in the summer of 1945. Its engagements at Kamaishi and Hamamatsu helped cripple the country's infrastructure and expedite the war's conclusion.

After de-activation in 1946, the battleship remained in the Reserve Fleet until being struck from the Navy record in 1962. Despite being ordered to be sold for scrap, her wartime crew lobbied to save the ship as a memorial. Schoolchildren around *Massachusetts* rallied for the ship named for their state, and ''Big Mamie,'' was brought to Fall River in 1965 as a result of these tireless civic efforts. It now serves as the central attraction in Fall River's thriving waterfront; standing as a reminder of its service and inspiring young people to find their own ways to serve.

Through it all, the ship beared the name of our Commonwealth with a pride that we match today, and I am honored to join the Navy, the citizens of Fall River, and people across our State in celebrating the 60th anniversary of the *Massachusetts*' receiving its commission.•

HONORING DR. GEORGE RUPP, PRESIDENT OF COLUMBIA UNIVERSITY

• Mr. GREGG. Mr. President, I rise today to honor Dr. George Rupp, a man who has served higher education and the city of New York well over his 9 years as President of Columbia University.

As a proud alumnus of Columbia University, I wanted to share with Members of Congress some of the accomplishments of this fine leader, and to take this opportunity to salute Dr. Rupp. Columbia is one of the nation's most prestigious universities, and under Dr. Rupp's leadership it has only grown more so. In every area of the university's existence, from academic to administrative, fundraising and quality of life, Dr. Rupp has made a major impact. The legacy he has created sets a new standard in university administration.

When he joined the administration in 1993, Dr. Rupp promised to put undergraduate education at the center of the institution. He committed his energies and the university's resources to doing precisely that, and Columbia College is in a much stronger position as a consequence of his efforts. High school students are applying to Columbia in record numbers and undergraduate admissions have more than doubled since 1993.

Dr. Rupp introduced fellowships to attract professors to teach its celebrated core curriculum for undergraduates, anchored by contemporary civilization and humanities literature. Columbia's graduate programs in law, business, medicine, journalism, and the liberal arts have grown more competitive and are among the best in the world. Over the past nine years, four Columbia faculty members have been Nobel prize winners.

Columbia has raised its profile in New York City and significantly improved relations with the surrounding communities of Morningside Heights, Harlem, and Washington Heights. Dr. Rupp has striven to make Columbia a good neighbor and involves community leadership in major construction projects. He also established a housing assistance program to encourage Columbia staff to purchase homes in these neighborhoods, which are part of the Upper Manhattan Empowerment Zone.

Under Dr. Rupp's leadership, the university has added an architecturally distinguished student center, expanded student housing and built world-class research facilities. Columbia has also taken over the management of the Biosphere 2 Center in Oracle, AZ to expand the science of its Earth Institute. In addition, he has established the International Research Institute for Climate Prediction, a facility to direct advances in climate sciences to the benefit of societies around the world.

Dr. Rupp, an ordained Presbyterian minister and a religious scholar, became Dean of Harvard Divinity School

at age 37, and then president of Rice University and president of Columbia University. He is a man of many talents and interests.

For all these and many more reasons, I stand now to applaud his leadership at Columbia University, his dedication to this great institution, and to wish him great luck in the future. Columbia today embodies substantial forward momentum and is poised to achieve further advances in the years ahead.●

TRIBUTE TO RICHARD M. SCULLION

● Mr. FEINGOLD. Mr. President, today, I would like to honor the life of a dedicated public servant, Richard M. Scullion. Dick passed away at the end of April following a brief illness.

Dick started out as a farmer near Highland, WI. He married his wife, Marian, in 1945, and worked to raise their family. In the 1950s, during a typical Wisconsin blizzard, friends of Dick's nominated him to serve on the Iowa County Board and in 1965, he became the chair of the board, a seat he would hold until 2000. At that time, he was the longest serving County Chair in Wisconsin history. Dick simultaneously served as the Highland township chairman and as a member of the Memorial Hospital of Iowa County Board.

In addition to his over 40 years of service to Iowa County, Dick demonstrated a strong commitment to his home state. He was a member of the Wisconsin State Soil and Water Conservation Board, Committee Land Preservation Board, Water Resources Committee, Wisconsin River Rail Transit Commission, Farmland Preservation Board, and was the chairman of the Southwest Regional Planning Commission.

His work made him an invaluable citizen of the State of Wisconsin; he was recognized for his achievements in 1995, when the Iowa County Courthouse addition was named in his honor. Dick was also named the Soil Conservationist of the Year in 1976 and received the Wisconsin Master Agriculturist Award in 1979. In 1983, the University of Wisconsin College of Agriculture and Life Sciences awarded him an honorary degree.

Dick Scullion was an important part of Iowa County, and the State of Wisconsin, and will hold a special place in our State's history. He will be dearly missed.●

RETIREMENT OF ALDRED AMES

● Mr. CRAPO. Mr. President, I rise today to commend one of the key figures in Idaho's economic development efforts, Aldred Ames. For over two decades Mr. Ames has made a positive impact in virtually every one of Idaho's 201 incorporated communities, 44 counties, and 5 tribal nations. He has brought not only technical expertise and access to financial resources, but perhaps even more important a positive attitude that kept his constituents in economic distress from giving up hope.

Government employees are often accused of being process oriented rather than results oriented. Mr. Ames, with his single-minded focus on results, is an excellent example of the kind of Federal employee of whom we should all be proud.

As he is about to retire, I congratulate Mr. Ames on his outstanding record of accomplishment and wish him every success in his future endeavors.●

TRIBUTE TO THE UNIVERSITY OF HAWAII MEN'S VOLLEYBALL TEAM

● Mr. INOUYE. Mr. President, I am proud to rise and pay tribute to the University of Hawaii men's volleyball team for winning the 2002 National Collegiate Athletic Association, NCAA, Championship this past weekend in Pennsylvania. The Warrior Volleyball squad made history by winning the first National Championship for any men's athletic program at the University of Hawaii.

I salute all of the athletes and coaches of the NCAA Championship tournament. I commend them for their sacrifice and determination; they should all be proud of their achievements as student-athletes.

I also commend the people of Hawaii for their support of the University's athletic programs. Indeed, they are the greatest volleyball fans in the nation.

The success of the men's volleyball team is indicative of the depth of the community's support, and the caliber of students, faculty, and staff at the University. As our nation's only public institution of higher learning in the Pacific, the University of Hawaii has many unique strengths and comparative advantages. It offers premiere science, math, business, art, social science, and, as it has now demonstrated irrefutably, athletic programs. The people of Hawaii should be proud of their University.

I applaud Head Coach Mike Wilton who, for the past decade, has worked tirelessly to successfully build and strengthen the men's volleyball program, and I commend the members of his coaching staff for their commitment to preparing the athletes for success both on and off the court.

Finally, I extend my sincerest congratulations to the Warrior Volleyball players for capturing the national title. I am pleased to note that the team is comprised of young men from Hawaii, Arizona, California, Oregon, Guam, Canada, Cuba, Israel, Puerto Rico, and Serbia. Despite their cultural differences and language barriers, they remained unified in their mission and goal. The team has proven that all things are possible through hard work.

I submit the team's roster of players and coaches for the RECORD:

Players: Dejan Miladinovic, Geronimo Chala, Robert Drew, Kimo Tuyay, Jake Muise, Eyal Zimet, Vernon Podlewski, Jeffrey Gleason, Costas Theocharidis, Jose Delgado, Kyle Denitz, Marvin Yamada, John Bender, Ryan Woodward, Tony Ching, Brian Nordberg, Delano Thomas, and Daniel Rasay.

Coaches: Mike Wilton, Tino Reyes, Aaron Wilton, and Marlo Torres.●

IN RECOGNITION THE RETIREMENT OF INSPECTOR FREDERICH A. GREENSLATE

● Mr. LEVIN. Mr. President, I ask that the Senate join me today in acknowledging the retirement of Inspector Frederich A Greenslate of West Bloomfield, MI, who retired on April 27th of this year after serving in the Michigan State Police for 41 years. Mr. Greenslate is one of the longest serving officers in departmental history and people will be gathering on May 17th to celebrate his distinguished career.

I cannot overstate the debt we owe our men and women in uniform for putting their lives on the line as guardians of peace. Every day they protect the people of our great Nation and keep our cities safe. Frederich Greenslate has been part of this great tradition of service, dedication and honor.

Mr. Greenslate joined the Michigan State Police in 1961 after receiving an Associate's Degree in Criminal Justice from Macomb Community College. Originally posted as a Trooper at the Newaygo Post, he moved up the ranks and concluded his career as an Assistant District Commander in the 2nd District Headquarters. Over this period, he received four Meritorious Citations for service above the call of duty as well as an Unit Citation. He also assisted with several events of national and international significance including the visit of Pope John Paul II to Detroit, Super Bowl XVI, United States Cup Soccer, World Cup Soccer, The Detroit Grand Prix, and the National Governors' Conference.

Despite the long hours and stressful atmosphere associated with being a police officer, Mr. Greenslate has been devoted husband to his wife Susan and father of six children: Adam, Bethany, Douglas, Jason, Jeffrey, and Melanie. In addition, his children have blessed him with three grandchildren, Jack, Joe, and Connor. He is also a member of the South-East, Oakland County, Macomb County, Wayne County, and St. Clair County Police Chief's Associations.

Our Nation's public servants play a vital role in preserving the public good. However, few public servants do more to ensure our Nation's peace and stability than our police officers. I know my Senate Colleagues will join me in thanking Mr. Greenslate for his distinguished career as a Michigan State Trooper and wish him well in the years ahead.●

HONORING THE GIRL SCOUTS OF RHODE ISLAND

● Mr. REED. Mr. President, I rise in recognition of the 90th Anniversary of

the Girl Scouts of America. The Girl Scout tradition began on March 12, 1912, when founder Juliette Gordon Low assembled 18 girls in Savannah, GA for the first-ever Girl Scout meeting. Today, the organization offers girls of all races, ages, ethnicities, socioeconomic backgrounds, and abilities the chance to thrive by building the real-life skills they will need as adults.

I am especially honored to acknowledge the activities of the Girl Scouts of Rhode Island, which currently serves over 13,700 girls in my home State and several bordering towns of Massachusetts and Connecticut. The Girl Scouts of Rhode Island has created several enriching programs and activities over the years that truly help girls grow strong. One such programs is Girls on the Go, which serves low-income girls at free lunch sites throughout the State during the summer months, allowing them to participate in Girl Scout activities. Other examples include the City Summer Camps program in both Providence and Central Falls which provides 6 weeks of training and recreational activities, and the Girls at the Center program which has provided numerous scouts and adults with opportunities to explore science and technology.

I am truly proud of the achievements of the Rhode Island Girl Scouts and their mission to help young women achieve high ideals of character, conduct, patriotism and service. I wish them continued success in the future.●

REPORT TO RESTORE NONDISCRIMINATORY TRADE TREATMENT (NORMAL TRADE RELATIONS TREATMENT) TO THE PRODUCTS OF AFGHANISTAN—PM 83

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on May 3, 2002, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

Public Law 99–190, 99 Stat. 1319, which took effect on December 19, 1985, authorized the President to deny normal trade relations (NTR) tariff treatment to the products of Afghanistan. On January 31, 1986, President Reagan issued a proclamation denying NTR treatment to Afghanistan.

I have determined that it is appropriate to restore NTR treatment to the products of Afghanistan. Restoration of NTR treatment will support U.S. efforts to normalize relations with Afghanistan and facilitate increased trade with the United States, which could contribute to economic growth and assist Afghanistan in rebuilding its economy. Therefore, in accordance with section 118 of Public Law 99–190, I hereby provide notice that I have issued the attached proclamation restoring NTR tariff treatment to the products of Afghanistan. The Proclamation shall take effect 30 days after it is published in the *Federal Register* .

GEORGE W. BUSH.

THE WHITE HOUSE, *May 3, 2002*.

REPORT RELATIVE TO TWO DEFERRALS OF BUDGET AUTHORITY, TOTALING $2 BILLION—PM 84

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on May 3, 2002, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committee on Appropriations; the Budget; and Foreign Relations:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report two deferrals of budget authority, totaling $2 billion.

The proposed deferrals affect the Department of State and International Assistance Programs.

GEORGE BUSH.

THE WHITE HOUSE, *May 3, 2002*.

MESSAGES FROM THE HOUSE

At 12:59 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 87. A joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

At 4:03 p.m., a message from the House of Representatives, delivered by M. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3801. An act to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes.

MEASURES REFERRED

The following bills, previously received from the House of Representatives for concurrence, were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4486. An act to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the ''Clarence B. Craft Post Office Building''; to the Committee on Governmental Affairs.

H.R. 4028. An act to designate the United States courthouse located at 600 West Capitol Avenue in Little Rock, Arkansas, as the ''Richard S. Arnold United States Courthouse''; to the Committee on Environment and Public Works.

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3801. An act to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes; to the committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2485. A bill entitled the ''Andean Trade Promotion and Drug Eradication Act.''

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar pursuant to 42 U.S.C. 10135(d)(5)(A):

H. J. Res. 87. Joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4560. An act to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6801. A communication from the Executive Vice President of Communications and Government Relations, Tennessee Valley Authority, transmitting, pursuant to law, the report of a vacancy in the position of Inspector General, receive on May 1, 2002; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on Environment and Public Works; and Governmental Affairs.

EC–6802. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination confirmed for the position of Inspector General, received on May 1, 2002; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on Banking, Housing, and Urban Affairs; and Governmental Affairs.

EC–6803. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 01–03; to the Committee on Appropriations.

EC–6804. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''10 CFR Part 63: Disposal of High-Level Radioactive Wastes in a Proposed Geological Repository at Yucca Mountain, Nevada'' (RIN3150–AG04) received on April 30, 2002; to

the Committee on Environment and Public Works.

EC–6805. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the Council's Annual Report for 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–6806. A communication from the Attorney General, transmitting, pursuant to law, a report on the Plan for the Transfer of Functions of the United States Parole Commission; to the Committee on the Judiciary.

EC–6807. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation entitled ''The Child Obscenity and Pornography Prevention Act of 2002''; to the Committee on the Judiciary.

EC–6808. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report on the intent to obligate funds for purposes of Nonproliferation and Disarmament Fund (NDF) activities; to the Committee on Foreign Relations.

EC–6809. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, the report of a delay of the Department's annual report on terrorism; to the Committee on Foreign Relations.

EC–6810. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice and Procedure'' (RIN3069–AB03) received on April 30, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–6811. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments to Federal Housing Finance Board Regulations'' (RIN3069–AB05) received on May 1, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–6812. A communication from the Secretary of Energy, transmitting, pursuant to Section 3134 of the Fiscal Year 2002 Defense Authorization Act, a report detailing the purposes for which the Department of Energy plans to execute the National Security Programs Administrative Support funding in Fiscal Year 2002, and a report on the feasibility of using an energy savings performance contract for a new office building at the Albuquerque Operations Office; to the Committee on Armed Services.

EC–6813. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to P.L. 107–117, a report on terrorism response funding that is of an ongoing and recurring nature; to the Committee on Armed Services.

EC–6814. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Corrections to Rev. Proc. 2002–9 (Automatic consent to change a method of accounting)'' (Ann. 2002–17) received on April 30, 2002; to the Committee on Finance.

EC–6815. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Dealers in Securities Futures Contracts'' (Rev. Proc. 2002–11, 2002–7) received on April 30, 2002; to the Committee on Finance.

EC–6816. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—December 2001'' (Rev. Rul. 2002–7) received on April 30, 2002; to the Committee on Finance.

EC–6817. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Definition of Disqualified Person'' ((RIN1545–AY19)(TD8982)) received on April 30, 2002; to the Committee on Finance.

EC–6818. A communication from the Secretary of Health and Human Services, transmitting, a report concerning the level of coverage and expenditures for religious nonmedical health care institutions (RNHCIs) under both Medicare and Medicaid for the previous fiscal year (FY); estimated levels of expenditure for the current FY; and, trends in those expenditure levels including an explanation of any significant changes in expenditure levels from previous years; to the Committee on Finance.

EC–6819. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Interior Trunk Release; Petition for Reconsideration'' (RIN2127–AI69) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6820. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Actions Revision of VOR Federal Airway 105 and Jet Route 86, AZ and the establishment of Jet Routes 614 and 616'' ((RIN2120–AA66)(2002–0066)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6821. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Action Establishment of Class E Airspace; Elkton, MD'' ((RIN2120–AA66)(2002–0067)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6822. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Actions Modification of Santa Ana Class C Airspace Area, CA'' ((RIN2120–AA66)(2002–0065)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6823. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives Fairchild Aircraft, Inc. Models SA226 and SA227 Series Airplanes'' ((RIN2120–AA64)(2002–0208)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6824. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Actions Establishment of Class E Airspace; EWT 4 Heliport, Honey Grove, PA'' ((RIN2120–AA66)(2002–0061)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6825. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Revision to Class E Surface Area at Marysville Yuba County Airport, CA'' ((RIN2120–AA66)(2002–0062)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6826. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Actions Admt. to Caruthersville, MO Class E Airspace Area'' ((2120–AA66)(2002–0064)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6827. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fairchild Aircraft, Inc. SA226 and SA227 Series Airplanes'' ((RIN2120–AA64)(2002–0204)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6828. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC–8–400, 401, and 402 Series Airplanes'' ((RIN2120–AA64)(2002–0205)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6829. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 and 300 Series Airplanes'' ((RIN2120–AA64)(2002–0206)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6830. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200, 300, and 300F Series Airplanes'' ((RIN2120–AA64)(2002–0207)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6831. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–200, 200C, 300, 400 and 500 Series Airplanes'' ((RIN2120–AA64)(2002–0200)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6832. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727, 727C, 727–100, 727–100C, 727–200 and 727–200F Series Airplanes'' ((RIN2120–AA64) (2002–0201)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6833. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–200, 200C, 300, 400, and 500 Series Airplanes'' ((RIN2120–AA64) (2002–0202)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6834. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–200 and 200C Series Airplanes'' ((RIN2120–AA64) (2002–0203)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6835. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives:

Pratt and Whitney JT9D–7R4 Series Turbofan Engines'' ((RIN2120–AA64) (2002–0196)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6836. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 Series Airplanes Equipped with General Electric GE90 Series Engines'' ((RIN2120–AA64) (2002–0197)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6837. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC–9–10, 20, 30, 40 and 50 Series Airplanes and C–9 Airplanes'' ((RIN2120–AA64) (2002–0198)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6838. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2, A300 B4, A300 B4–600 and A300 B4–600R Series Airplanes, and Model A300 F4–605R Airplanes'' ((RIN2120–AA64) (2002–0199)) received on April 30, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6839. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice of Solicitation for Applications; Request for Research Proposals'' (RIN0648–ZB14) received on May 1, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6840. A communication from the Director, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the Office's Fiscal Year 2001 Performance Report; to the Committee on Governmental Affairs.

EC–6841. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Annual Program Performance Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–6842. A communication from the Secretary of Labor and Chairman of the Board, with the Executive Director of the Pension Benefit Guaranty Corporation, transmitting jointly, pursuant to law, the Corporation's Financial Statements and Performance Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–6843. A communication from the Acting Chairman of the National Endowment for The Arts, transmitting, the National Endowment for the Arts Performance Reports for Fiscal Years 1999, 2000, 2001, and 2003; to the Committee on Governmental Affairs.

EC–6844. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting, the Agency's Accountability Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–6845. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Office of the Inspector General Financial and IT Operations Audit Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–6846. A communication from the Director of Selective Service, transmitting, pursuant to law, the Service's Performance Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–6847. A communication from the Director, National Science Foundation, transmitting, pursuant to law, the Foundation's Performance Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 625, a bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes. (Rept. No. 107–147).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BIDEN (for himself, Mr. HELMS, Mr. KENNEDY, and Mr. FRIST):

S. 2487. A bill to provide for global pathogen surveillance and response; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself, Mr. MILLER, Mr. FITZGERALD, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. HELMS, Mr. SESSIONS, and Mr. ENZI):

S. 2488. A bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. CLINTON (for herself, Ms. SNOWE, Ms. MIKULSKI, and Mr. BREAUX):

S. 2489. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TORRICELLI (for himself and Mr. SMITH of Oregon):

S. 2490. A bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program; to the Committee on Finance.

By Mr. INHOFE:

S. 2491. A bill to authorize the President to award a gold medal on behalf of Congress to the Choctaw and Comanche code talkers in recognition of the contributions provided by those individuals to the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CLELAND:

S. 2492. A bill to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for himself, Mr. KENNEDY, and Mr. DODD):

S. 2493. A bill to amend the Immigration and Nationality Act to provide a limited extension of the program under section 245(i) of that Act; to the Committee on the Judiciary.

By Mr. McCAIN:

S. 2494. A bill to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. BIDEN, Mr. LOTT, Mr. DASCHLE, Mr. SHELBY, Mr. REID, Mr. NICKLES, Mr. TORRICELLI, Mr. BURNS, Mr. SCHUMER, Mr. GREGG, Mrs. CLINTON, Mr. DEWINE, Mr. MCCAIN, Mr. MCCONNELL, Mr. CHAFEE, Mr. ALLARD, Mr. BROWNBACK, Mr. CRAPO, Mr. SANTORUM, Mr. COCHRAN, Mr. BOND, Mrs. HUTCHISON, Mr. THOMPSON, Ms. COLLINS, Mr. CRAIG, Mr. KYL, Mr. ENSIGN, Mr. INHOFE, Mr. ALLEN, Mr. HAGEL, Mr. VOINOVICH, Mr. STEVENS, Mr. WARNER, Mr. SPECTER, Mr. SMITH of Oregon, Mr. BUNNING, Mr. SMITH of New Hampshire, and Mr. INOUYE):

S. 2495. A bill to designate the United States courthouse located at 100 Federal Plaza in Central Islip, New York, as the ''Alfonse M. D'Amato United States Courthouse''; to the Committee on Environment and Public Works.

By Mrs. CLINTON (for herself, Mr. SCHUMER, and Mr. LIEBERMAN):

S. 2496. A bill to provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS:

S. 2497. A bill to prohibit the opening of cockpit doors in flight; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2498. A bill to amend the Internal Revenue Code of 1986 to require adequate disclosure of transactions which have a potential for tax avoidance or evasion, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mrs. CLINTON):

S. 2499. A Bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 2500. A bill to authorize the use of certain funds to compensate New York City public schools for operating and education-related expenses (including expenses relating to the provision of mental health and trauma counseling and other appropriate support services) resulting from the terrorist attack on that city on September 11, 2001; to the Committee on Environment and Public Works.

By Mr. ALLARD (for himself, Mr. SESSIONS, and Mrs. HUTCHISON):

S. 2501. A bill to establish requirements arising from the delay or restriction on the shipment of special nuclear materials to the Savannah River Site, Aiken, South Carolina; to the Committee on Armed Services.

By Mr. GRASSLEY:

S. 2502. A bill to improve the provision of health care in all areas of the United States; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAFEE (for himself and Mr. FEINGOLD):

S. Con. Res. 109. A concurrent resolution commemorating the independence of East Timor and expressing the sense of Congress that the President should establish diplomatic relations with East Timor, and for

other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 77

At the request of Mr. DASCHLE, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 77, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 264

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 264, a bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the medicare program to all individuals at clinical risk for osteoporosis.

S. 326

At the request of Ms. COLLINS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

S. 454

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 454, a bill to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes.

S. 603

At the request of Mr. LIEBERMAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 603, a bill to provide for full voting representation in the Congress for the citizens of the District of Columbia to amend the Internal Revenue Code of 1986 to provide that individuals who are residents of the District of Columbia shall be exempt from Federal income taxation until such full voting representation takes effect , and for other purposes.

S. 830

At the request of Mr. CHAFEE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 969

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 969, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1152

At the request of Mr. DURBIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1152, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. 1370

At the request of Mr. MCCONNELL, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1370, a bill to reform the health care liability system.

S. 1394

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1394, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 1711

At the request of Mr. CAMPBELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1711, a bill to designate the James Peak Wilderness and the James Peak Protection Area in the State of Colorado, and for other purposes.

S. 1792

At the request of Mr. BAYH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1792, a bill to further facilitate service for the United States, and for other purposes.

S. 1864

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 1864, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 1992

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1992, a bill to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, and for other purposes.

S. 2017

At the request of Mr. CAMPBELL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2017, a bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

S. 2070

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2070, a bill to amend part A of title IV to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes.

S. 2079

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2079, a bill to amend title 38, United States Code, to facilitate and enhance judicial review of certain matters regarding veteran's benefits, and for other purposes.

S. 2117

At the request of Mr. DODD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2117, a bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, and for other purposes.

S. 2200

At the request of Mr. BAUCUS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2200, a bill to amend the Ineternal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

S. 2210

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2210, a bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative.

S. 2221

At the request of Mr. ROCKEFELLER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 2246

At the request of Mr. DODD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2328

At the request of Mr. HARKIN, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2328, a bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to

reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality.

S. 2448

At the request of Mr. HOLLINGS, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 2448, a bill to improve nationwide access to broadband services.

S. 2458

At the request of Mrs. HUTCHISON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2458, a bill to enhance United States diplomacy, and for other purposes.

S. 2461

At the request of Mr. FEINGOLD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2461, a bill to terminate the Crusader artillery system program of the Army, and for other purposes.

S. 2484

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2484, a bill to amend part A of title IV of the Social Security Act to reauthorize and improve the operation of temporary assistance to needy families programs operated by Indian tribes, and for other purposes.

S. RES. 253

At the request of Mr. SMITH of Oregon, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Res. 253, a resolution reiterating the sense of the Senate regarding Anti-Semitism and religious tolerance in Europe.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. HELMS, Mr. KENNEDY, and Mr. FRIST):

S. 2487. A bill to provide for global pathogen surveillance and response; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, Senator HELMS and I are proud to introduce today the Global Pathogen Surveillance Act of 2002. Senator HELMS is recovering from his heart surgery and is unable to be here today, but let me note our joint efforts in recognizing the importance of disease surveillance and preparing this bill for introduction. In recent years, we have joined forces on a number of sensible foreign policy initiatives and I am proud that we are doing so once again. I am also especially pleased that Senators KENNEDY and FRIST, the chairman and ranking member of the Public Health Subcommittee of the Senate Health, Education, Labor, and Pensions Committee, have also agreed to be original cosponsors of this bill.

This bill authorizes $150 million over the next 2 years to provide assistance to developing nations to improve global disease surveillance to help prevent and contain both biological weapons attacks and naturally occurring infectious disease outbreaks around the world. As the ranking member and chairman of the Foreign Relations Committee, respectively, Senator HELMS and I recognize all too well that biological weapons are a global threat with no respect for borders. A terrorist group could launch a biological weapons attack in Mexico in the expectation that the epidemic would quickly spread to the United States. A rogue state might experiment with new disease strains in another country, intending later to release them here. A biological weapons threat need not begin in the United States to reach our shores.

For that reason, our response to the biological weapons threat cannot be limited to the United States alone. Global disease surveillance, a systematic approach to tracking disease outbreaks as they occur and evolve around the world, is essential to any real international response.

This country is making enormous advances on the domestic front in bioterrorism defense. $3 billion has been appropriated for this purpose in FY 2002, including $1.1 billion to improve State and local public health infrastructure. Delaware's share will include $6.7 million from the Centers for Disease Control and Prevention to improve the public health infrastructure and $548,000 to improve hospital readiness in my State.

The House and Senate are currently in conference to reconcile competing versions of a comprehensive bioterrorism bill drafted last fall following the anthrax attacks via the U.S. postal system. Those attacks, which killed five individuals and infected more than twenty people, highlighted our domestic vulnerabilities to a biological weapons attack. We need to further strengthen our Nation's public health system, improve Federal public health laboratories, and fund the necessary research and procurement for vaccines and treatments to respond better to future bioterrorist attacks. As an original co-sponsor of the Senate bill, I know the final package taking shape in conference will achieve those goals and I look forward to its enactment into law.

Nevertheless, any effective response to the challenge of biological weapons must also have an international component. Limiting our response to U.S. territory would be shortsighted and doomed to failure. A dangerous pathogen released on another continent can quickly spread to the United States in a matter of days, if not hours. This is the dark side of globalization. International trade, travel, and migration patterns offer unlimited opportunities for pathogens to spread across national borders and to move from one continent to another. Moreover, an overseas epidemic could give us our first warning of a new disease strain that was developed by a country or by terrorists for use as a biological weapon, or that could be used by others for that purpose.

We should make no mistake: in today's world, all infectious disease epidemics, wherever they occur and whether they are deliberately engineered or are naturally occurring, are a potential threat to all nations, including the United States.

How does disease surveillance fit into all of this? A biological weapons attack succeeds partly through the element of surprise. As Dr. Alan P. Zelicoff of the Sandia National Laboratory testified before the Foreign Relations Committee in March, early warning of a biological weapons attact can prevent illness and death in all but a small fraction of those infected. A cluster of flu-like symptoms in a city or region may be dismissed by individual physicians as just the flu when in fact it may be anthrax, plague, or another biological weapon. Armed with the knowledge, however, that a biological weapons attack has in fact occurred, doctors and nurses can examine their patients in a different light and, in many cases, effectively treat infected individuals.

Disease surveillance, a comprehensive reporting system to quickly identify and communicate abnormal patterns of symptoms and illnesses, can quickly alert doctors across a region that a suspicious disease outbreak has occurred. Epidemiological specialists can then investigate and combat the outbreak. And if it's a new disease or strain, we can begin to develop treatments that much earlier.

A good surveillance system requires trained epidemiological personnel, adequate laboratory tools for quick diagnosis, and communications equipment to circulate information. Even in the United States today, many States and localities rely on old-fashioned pencil and paper methods of tracking disease patterns. Thankfully, we are addressing those domestic deficiencies through the bioterrorism bill in conference.

For example, in Delaware, we are developing the first, comprehensive, state-wide electronic reporting system for infectious diseases. This system will be used as a prototype for other states, and will enable much earlier detection of infectious disease outbreaks, both natural and bioterrorist. I and my congressional colleagues in the delegation have been working for over two years to get this project up and running, and we were successful in obtaining $2.6 million in funding for this

project over the past 2 years. I and my colleagues have requested $1.4 million for additional funding in FY 2003, and we are extremely optimistic that this funding will be forthcoming.

It is vitally important that we extend these initiatives into the international arena. However, as many developing countries are way behind us in terms of public health resources, laboratories, personnel, and communications, these countries will need help just to get to the starting point we have already reached in this country.

An effective disease surveillance system is beneficial even in the absence of biological weapons attacks. Bubonic plague is bubonic plague, whether it is deliberately engineered or naturally occurring. Just as disease surveillance can help contain a biological weapons attack, it can also help contain a naturally occurring outbreak of infectious disease. According to the World Health Organization, 30 new infectious diseases have emerged over the past thirty years; between 1996 and 2001 alone, more than 800 infectious disease outbreaks occurred around the world, on every continent. With better surveillance, we can do a better job of mitigating the consequences of these disease outbreaks.

In 2000, the World Health Organization established the first truly global disease surveillance system, the Global Alert and Response Network, to monitor and track infectious disease outbreaks in every region of the world. The WHO has done an impressive job so far with this initiative, working on a shoestring budget. But this global network is only as good as its components, individual nations. Unfortunately, developing nations, those nations most likely to experience rapid disease outbreaks, simply do not possess the trained personnel, the laboratory equipment, or the public health infrastructure to track evolving disease patterns and detect emerging pathogens.

According to a report by the National Intelligence Council, developing nations in Africa and Asia have established only rudimentary systems, if any at all, for disease surveillance, response, and prevention. The World Health Organization reports that more than sixty percent of laboratory equipment in developing countries is either outdated or non-functioning.

This lack of preparedness can lead to tragic results. In August 1994 in Surat, a city in western India, a surge of complaints on flea infestation and a growing rat population was followed by a cluster of reports on patients exhibiting the symptoms of pneumonic plague. However, authorities were unable to connect the dots until the plague had spread to seven states across India, ultimately killing 56 people and costing the Indian economy $600 million. Had the Indian authorities employed better surveillance tools, they may well have contained the epidemic, limited the loss of life, and surely avoided the panic that led to economically disastrous embargoes on trade and travel. An outbreak of pneumonic plague in India this February was detected more quickly and contained with only a few deaths, and no costly panic.

Developing nations are the weak links in any comprehensive global disease surveillance network. Unless we take action to shore up their capabilities to detect and contain disease outbreaks, we leave the entire world vulnerable to a deliberate biological weapons attack or a virulent natural epidemic.

It is for these reasons that Senator HELMS and I have worked together in recent months to craft the Global Pathogen Surveillance Act of 2002. This bill will authorize $150 million in FY 2003 and FY 2004 to strengthen the disease surveillance capabilities of developing nations. First, the bill seeks to ensure in developing nations a greater number of personnel trained in basic epidemiological techniques. It offers enhanced in-country training for medical and laboratory personnel and the opportunity for select personnel to come to the United States to receive training in our Centers for Disease Control laboratories and Master of Public Health programs in American universities. Second, the bill provides assistance to developing nations to acquire basic laboratory equipment, including items as mundane as microscopes, to facilitate the quick diagnosis of pathogens. Third, the bill enables developing nations to obtain communications equipment to quickly transmit data on disease patterns and pathogen diagnoses, both inside a nation and to regional organizations and the WHO. Again, we're not talking about fancy high-tech equipment, but basics like fax machines and Internet-equipped computers. Finally, the bill gives preference to countries that agree to let experts from the United States or international organizations investigate any suspicious disease outbreaks.

If passed, the Global Pathogen Surveillance Act of 2002 will go a long way in ensuring that developing nations acquire the basic disease surveillance capabilities to link up effectively with the WHO's global network. This bill offers an inexpensive and common sense solution to a problem of global proportions, the dual threat of biological weapons and naturally occurring infectious diseases. The funding authorized is only a tiny fraction of what we will spend domestically on bioterrorism defenses, but this investment will pay enormous dividends in terms of our national security.

Let me close with an excerpt of testimony from the Foreign Relations Committee hearing last September on bioterrorism. Dr. D.A. Henderson, the man who spearheaded the successful international campaign to eradicate smallpox in the 1970's, recently stepped down from a short-term position as the director of the Office of Emergency Preparedness in the Department of Health and Human Services. In that position, he was vested with the responsibility for helping organize the U.S. government's response to future bioterrorist attacks. Dr. Henderson, who at the time of the hearing was the head of the Johns Hopkins University Center for Civilian Biodefense Strategies, was very clear on the value of global disease surveillance:

> In cooperation with the WHO and other countries, we need to strengthen greatly our intelligence gathering capability. A focus on international surveillance and on scientist-to-scientist communication will be necessary if we are to have an early warning about the possible development and production of biological weapons by rogue nations or groups.

Dr. Henderson is exactly right. We cannot leave the rest of the world to fend for itself in combating biological weapons and infectious diseases if we are to ensure America's security.

I ask unanimous consent that the text of the Global Pathogen Surveillance Act of 2002 be printed in the the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2487

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 ''Global Pathogen Surveillance Act of 2002''.

SEC. 2. FINDINGS; PURPOSE.

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

(1) Bioterrorism poses a grave national security threat to the United States. The insidious nature of the threat, the likely delayed recognition in the event of an attack, and the underpreparedness of the domestic public health infrastructure may produce catastrophic consequences following a biological weapons attack upon the United States.

(2) A contagious pathogen engineered as a biological weapon and developed, tested, produced, or released in another country can quickly spread to the United States. Given the realities of international travel, trade, and migration patterns, a dangerous pathogen released anywhere in the world can spread to United States territory in a matter of days, before any effective quarantine or isolation measures can be implemented.

(3) To effectively combat bioterrorism and ensure that the United States is fully prepared to prevent, diagnose, and contain a biological weapons attack, measures to strengthen the domestic public health infrastructure and improve domestic surveillance and monitoring, while absolutely essential, are not sufficient.

(4) The United States should enhance cooperation with the World Health Organization, regional health organizations, and individual countries to help detect and quickly contain infectious disease outbreaks or bioterrorism agents before they can spread.

(5) The World Health Organization (WHO) has done an impressive job in monitoring infectious disease outbreaks around the world, particularly with the establishment in April 2000 of the Global Outbreak Alert and Response network.

(6) The capabilities of the World Health Organization are inherently limited in that its

disease surveillance and monitoring is only as good as the data and information the World Health Organization receives from member countries and are further limited by the narrow range of diseases (plague, cholera, and yellow fever) upon which its disease surveillance and monitoring is based, and the consensus process used by the World Health Organization to add new diseases to the list. Developing countries in particular often cannot devote the necessary resources to build and maintain public health infrastructures.

(7) In particular, developing countries could benefit from—

(A) better trained public health professionals and epidemiologists to recognize disease patterns;

(B) appropriate laboratory equipment for diagnosis of pathogens;

(C) disease reporting that is based on symptoms and signs (known as ''syndrome surveillance'') enabling the earliest possible opportunity to conduct an effective response;

(D) a narrowing of the existing technology gap in syndrome surveillance capabilities, based on reported symptoms, and real-time information dissemination to public health officials; and

(E) appropriate communications equipment and information technology to efficiently transmit information and data within national and regional health networks, including inexpensive, Internet-based Geographic Information Systems (GIS) for early recognition and diagnosis of diseases.

(8) An effective international capability to monitor and quickly diagnose infectious disease outbreaks will offer dividends not only in the event of biological weapons development, testing, production, and attack, but also in the more likely cases of naturally occurring infectious disease outbreaks that could threaten the United States. Furthermore, a robust surveillance system will serve to deter terrorist use of biological weapons, as early detection will help mitigate the intended effects of such malevolent uses.

(b) PURPOSE.—The purposes of this Act are as follows:

(1) To enhance the capability of the international community, through the World Health Organization and individual countries, to detect, identify, and contain infectious disease outbreaks, whether the cause of those outbreaks is intentional human action or natural in origin.

(2) To enhance the training of public health professionals and epidemiologists from eligible developing countries in advanced Internet-based syndrome surveillance systems, in addition to traditional epidemiology methods, so that they may better detect, diagnose, and contain infectious disease outbreaks, especially those due to pathogens most likely to be used in a biological weapons attack.

(3) To provide assistance to developing countries to purchase appropriate public health laboratory equipment necessary for infectious disease surveillance and diagnosis.

(4) To provide assistance to developing countries to purchase appropriate communications equipment and information technology, including appropriate computer equipment and Internet connectivity mechanisms, to facilitate the exchange of Geographic Information Systems-based syndrome surveillance information and to effectively gather, analyze, and transmit public health information for infectious disease surveillance and diagnosis.

(5) To make available greater numbers of United States Government public health professionals to international health organizations, regional health networks, and United States diplomatic missions where appropriate.

(6) To establish ''lab-to-lab'' cooperative relationships between United States public health laboratories and established foreign counterparts.

(7) To expand the training and outreach activities of overseas United States laboratories, including Centers for Disease Control and Prevention and Department of Defense entities, to enhance the public health capabilities of developing countries.

(8) To provide appropriate technical assistance to existing regional health networks and, where appropriate, seed money for new regional networks.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE DEVELOPING COUNTRY.—The term ''eligible developing country'' means any developing country that—

(A) has agreed to the objective of fully complying with requirements of the World Health Organization on reporting public health information on outbreaks of infectious diseases;

(B) has not been determined by the Secretary, for purposes of section 40 of the Arms Export Control Act (22 U.S.C. 2780), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), to have repeatedly provided support for acts of international terrorism, unless the Secretary exercises a waiver certifying that it is in the national interest of the United States to provide assistance under the provisions of this Act; and

(C) is a state party to the Biological Weapons Convention.

(2) ELIGIBLE NATIONAL.—The term ''eligible national'' means any citizen or national of an eligible developing country who does not have a criminal background, who is not on any immigration or other United States watch list, and who is not affiliated with any foreign terrorist organization.

(3) INTERNATIONAL HEALTH ORGANIZATION.—The term ''international health organization'' includes the World Health Organization and the Pan American Health Organization.

(4) LABORATORY.—The term ''laboratory'' means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(5) SECRETARY.—Unless otherwise provided, the term ''Secretary'' means the Secretary of State.

(6) SELECT AGENT.—The term ''select agent'' has the meaning given such term for purposes of section 72.6 of title 42, Code of Federal Regulations.

(7) SYNDROME SURVEILLANCE.—The term ''syndrome surveillance'' means the recording of symptoms (patient complaints) and signs (derived from physical examination) combined with simple geographic locators to track the emergence of a disease in a population.

SEC. 4. PRIORITY FOR CERTAIN COUNTRIES.

Priority in the provision of United States assistance for eligible developing countries under all the provisions of this Act shall be given to those countries that permit personnel from the World Health Organization and the Centers for Disease Control and Prevention to investigate outbreaks of infectious diseases on their territories.

SEC. 5. RESTRICTION.

Notwithstanding any other provision of this Act, no foreign nationals participating in programs authorized under this Act shall have access, during the course of such participation, to select agents that may be used as, or in, a biological weapon, except in a supervised and controlled setting.

SEC. 6. FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established a fellowship program (in this section referred to as the ''program'') under which the Secretary, in consultation with the Secretary of Health and Human Services, and, subject to the availability of appropriations, award fellowships to eligible nationals of developing countries to pursue public health education or training, as follows:

(1) MASTER OF PUBLIC HEALTH DEGREE.—Graduate courses of study leading to a master of public health degree with a concentration in epidemiology from an institution of higher education in the United States with a Center for Public Health Preparedness, as determined by the Centers for Disease Control and Prevention.

(2) ADVANCED PUBLIC HEALTH EPIDEMIOLOGY TRAINING.—Advanced public health training in epidemiology for public health professionals from eligible developing countries to be carried out at the Centers for Disease Control and Prevention (or equivalent State facility), or other Federal facility (excluding the Department of Defense or United States National Laboratories), for a period of not less than 6 months or more than 12 months.

(b) SPECIALIZATION IN BIOTERRORISM.—In addition to the education or training specified in subsection (a), each recipient of a fellowship under this section (in this section referred to as a ''fellow'') may take courses of study at the Centers for Disease Control and Prevention or at an equivalent facility on diagnosis and containment of likely bioterrorism agents.

(c) FELLOWSHIP AGREEMENT.—

(1) IN GENERAL.—In awarding a fellowship under the program, the Secretary, in consultation with the Secretary of Health and Human Services, shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

(A) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Secretary and confirmed in regularly scheduled updates to the Secretary from the institution providing the education or training on the progress of the recipient's education or training);

(B) will, upon completion of such education or training, return to the recipient's country of nationality or last habitual residence (so long as it is an eligible developing country) and complete at least four years of employment in a public health position in the government or a nongovernmental, not-for-profit entity in that country or, with the approval of the Secretary and the government concerned, in an international health organization; and

(C) agrees that, if the recipient is unable to meet the requirements described in subparagraph (A) or (B), the recipient will reimburse the United States for the value of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Secretary but not higher than the rate generally applied in connection with other Federal loans.

(2) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) and (1)(C) if the Secretary determines that it is in the national interest of the United States to do so.

(d) IMPLEMENTATION.—The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to enter into an agreement with any eligible developing country under which the developing country agrees—

(1) to establish a procedure for the nomination of eligible nationals for fellowships under this section;

(2) to guarantee that a fellow will be offered a professional public health position within the developing country upon completion of his studies; and

(3) to certify to the Secretary when a fellow has concluded the minimum period of employment in a public health position required by the fellowship agreement, with an explanation of how the requirement was met.

(e) PARTICIPATION OF UNITED STATES CITIZENS.—On a case-by-case basis, the Secretary may provide for the participation of United States citizens under the provisions of this section if the Secretary determines that it is in the national interest of the United States to do so. Upon completion of such education or training, a United States recipient shall complete at least five years of employment in a public health position in an eligible developing country or the World Health Organization.

SEC. 7. IN-COUNTRY TRAINING IN LABORATORY TECHNIQUES AND SYNDROME SURVEILLANCE.

(a) IN GENERAL.—In conjunction with the Centers for Disease Control and Prevention and the Department of Defense, the Secretary shall, subject to the availability of appropriations, support short training courses in-country (not in the United States) to laboratory technicians and other public health personnel (who are eligible persons) from developing countries in laboratory techniques relating to the identification, diagnosis, and tracking of pathogens responsible for possible infectious disease outbreaks. Training under this section may be conducted in overseas facilities of the Centers for Disease Control and Prevention or in Overseas Medical Research Units of the Department of Defense, as appropriate. The Secretary shall coordinate such training courses, where appropriate, with the existing programs and activities of the World Health Organization.

(b) TRAINING IN SYNDROME SURVEILLANCE.—In conjunction with the Centers for Disease Control and Prevention and the Department of Defense, the Secretary shall, subject to the availability of appropriations, establish and support short training courses in-country (not in the United States) for health care providers and other public health personnel from eligible developing countries in techniques of syndrome surveillance reporting and rapid analysis of syndrome information using Geographic Information System (GIS) tools. Training under this subsection may be conducted via the Internet or in appropriate facilities as determined by the Secretary. The Secretary shall coordinate such training courses, where appropriate, with the existing programs and activities of the World Health Organization.

SEC. 8. ASSISTANCE FOR THE PURCHASE AND MAINTENANCE OF PUBLIC HEALTH LABORATORY EQUIPMENT.

(a) AUTHORIZATION.—The President is authorized, on such terms and conditions as the President may determine, to furnish assistance to eligible developing countries to purchase and maintain public health laboratory equipment described in subsection (b).

(b) EQUIPMENT COVERED.—Equipment described in this subsection is equipment that is—

(1) appropriate, where possible, for use in the intended geographic area;

(2) necessary to collect, analyze, and identify expeditiously a broad array of pathogens, including mutant strains, which may cause disease outbreaks or may be used as a biological weapon;

(3) compatible with general standards set forth by the World Health Organization and, as appropriate, the Centers for Disease Control and Prevention, to ensure interoperability with regional and international public health networks; and

(4) not defense articles, defense services, or training as defined under the Arms Export Control Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (or successor statutes).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of equipment that, if made in the United States, would be subject to the Arms Export Control Act or likely be barred or subject to special conditions under the Export Administration Act of 1979 (or successor statutes).

(e) PROCUREMENT PREFERENCE.—In the use of grant funds authorized under subsection (a), preference should be given to the purchase of equipment of United States manufacture. The use of amounts appropriated to carry out this section shall be subject to section 604 of the Foreign Assistance Act of 1961.

(f) HOST COUNTRY'S COMMITMENTS.—The assistance provided under this section shall be contingent upon the host country's commitment to provide the resources, infrastructure, and other assets required to house, maintain, support, secure, and maximize use of this equipment and appropriate technical personnel.

SEC. 9. ASSISTANCE FOR IMPROVED COMMUNICATION OF PUBLIC HEALTH INFORMATION.

(a) ASSISTANCE FOR PURCHASE OF COMMUNICATION EQUIPMENT AND INFORMATION TECHNOLOGY.—The President is authorized to provide, on such terms and conditions as the President may determine, assistance to eligible developing countries for the purchase and maintenance of communications equipment and information technology described in subsection (b), and supporting equipment, necessary to effectively collect, analyze, and transmit public health information.

(b) COVERED EQUIPMENT.—Equipment described in this subsection is equipment that—

(1) is suitable for use under the particular conditions of the area of intended use;

(2) meets appropriate World Health Organization standards to ensure interoperability with like equipment of other countries and international organizations; and

(3) is not defense articles, defense services, or training as defined under the Arms Export Control Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (or successor statutes).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of equipment that, if made in the United States, would be subject to the Arms Export Control Act or likely be barred or subject to special conditions under the Export Administration Act of 1979 (or successor statutes).

(e) PROCUREMENT PREFERENCE.—In the use of grant funds under subsection (a), preference should be given to the purchase of communications (and information technology) equipment of United States manufacture. The use of amounts appropriated to carry out this section shall be subject to section 604 of the Foreign Assistance Act of 1961.

(f) ASSISTANCE FOR STANDARDIZATION OF REPORTING.—The President is authorized to provide, on such terms and conditions as the President may determine, technical assistance and grant assistance to international health organizations (including regional international health organizations) to facilitate standardization in the reporting of public health information between and among developing countries and international health organizations.

(g) HOST COUNTRY'S COMMITMENTS.—The assistance provided under this section shall be contingent upon the host country's commitment to provide the resources, infrastructure, and other assets required to house, support, maintain, secure, and maximize use of this equipment and appropriate technical personnel.

SEC. 10. ASSIGNMENT OF PUBLIC HEALTH PERSONNEL TO UNITED STATES MISSIONS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Upon the request of a United States chief of diplomatic mission or an international health organization, and with the concurrence of the Secretary of State, the head of a Federal agency may assign to the respective United States mission or organization any officer or employee of the agency occupying a public health position within the agency for the purpose of enhancing disease and pathogen surveillance efforts in developing countries.

(b) REIMBURSEMENT.—The costs incurred by a Federal agency by reason of the detail of personnel under subsection (a) may be reimbursed to that agency out of the applicable appropriations account of the Department of State if the Secretary determines that the relevant agency may otherwise be unable to assign such personnel on a non-reimbursable basis.

SEC. 11. LABORATORY-TO-LABORATORY EXCHANGE PROGRAM.

(a) AUTHORITY.—The head of a Federal agency, with the concurrence of the Secretary, is authorized to provide by grant, contract, or otherwise for educational exchanges by financing educational activities—

(1) of United States public health personnel in approved public health and research laboratories in eligible developing countries; and

(2) of public health personnel of eligible developing countries in United States public health and research laboratories.

(b) APPROVED PUBLIC HEALTH LABORATORIES DEFINED.—In this section, the term ''approved public health and research laboratories'' means non-United States Government affiliated public health laboratories that the Secretary determines are well-established and have a demonstrated record of excellence.

SEC. 12. EXPANSION OF CERTAIN UNITED STATES GOVERNMENT LABORATORIES ABROAD.

(a) IN GENERAL.—Subject to the availability of appropriations, the Centers for Disease Control and Prevention and the Department of Defense shall each—

(1) increase the number of personnel assigned to laboratories of the Centers or the Department, as appropriate, located in eligible developing countries that conduct research and other activities with respect to infectious diseases; and

(2) expand the operations of those laboratories, especially with respect to the implementation of on-site training of foreign nationals and activities affecting neighboring countries.

(b) COOPERATION AND COORDINATION BETWEEN LABORATORIES.—Subsection (a) shall be carried out in such a manner as to foster cooperation and avoid duplication between and among laboratories.

(c) RELATION TO CORE MISSIONS AND SECURITY.—The expansion of the operations of overseas laboratories of the Centers or the Department under this section shall not—

(1) detract from the established core missions of the laboratories; or

(2) compromise the security of those laboratories, as well as their research, equipment, expertise, and materials.

SEC. 13. ASSISTANCE FOR REGIONAL HEALTH NETWORKS AND EXPANSION OF FOREIGN EPIDEMIOLOGY TRAINING PROGRAMS.

(a) AUTHORITY.—The President is authorized, on such terms and conditions as the President may determine, to provide assistance for the purposes of—

(1) enhancing the surveillance and reporting capabilities for the World Health Organization and existing regional health networks; and

(2) developing new regional health networks.

(b) EXPANSION OF FOREIGN EPIDEMIOLOGY TRAINING PROGRAMS.—The Secretary of Health and Human Services is authorized to establish new country or regional Foreign Epidemiology Training Programs in eligible developing countries.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to subsection (c), there are authorized to be appropriated $70,000,000 for the fiscal year 2003 and $80,000,000 for fiscal year 2004, to carry out this Act.

(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

(A) $50,000,000 for the fiscal year 2003 and $50,000,000 for the fiscal year 2004 are authorized to be available to carry out sections 6, 7, 8, and 9;

(B) not more than $2,000,000 shall be available for each of the fiscal years 2003 and 2004 for the specific training programs authorized in section 6, of which not more than $500,000 shall be available to carry out subsection (a)(1) of such section and not more than $1,500,000 shall be available to carry out subsection (a)(2) of such section;

(C) $5,000,000 for the fiscal year 2003 and $5,000,000 for the fiscal year 2004 are authorized to be available to carry out section 10;

(D) $2,000,000 for the fiscal year 2003 and $2,000,000 for the fiscal year 2004 are authorized to be available to carry out section 11;

(E) $8,000,000 for the fiscal year 2003 and $18,000,000 for the fiscal year 2004 are authorized to be available to carry out section 12; and

(F) $5,000,000 for the fiscal year 2003 and $5,000,000 for the fiscal year 2004 are authorized to be available to carry out section 13.

(b) AVAILABILITY OF FUNDS.—The amount appropriated pursuant to subsection (a) is authorized to remain available until expended.

(c) REPORTING REQUIREMENT.—

(1) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report, in conjunction with the Secretary of Health and Human Services and the Secretary of Defense, containing—

(A) a description of the implementation of programs under this Act; and

(B) an estimate of the level of funding required to carry out those programs at a sufficient level.

(2) LIMITATION ON OBLIGATION OF FUNDS.—Not more than 10 percent of the amount appropriated pursuant to subsection (a) may be obligated before the date on which a report is submitted, or required to be submitted, whichever first occurs, under paragraph (1).

Mr. FRIST. Mr. President, I rise to join with my colleagues Senators BIDEN, HELMS, and KENNEDY in introducing the Global Pathogen Surveillance Act of 2002. This bipartisan legislation will help ensure that we are better prepared globally to deal with biological threats and attacks.

The Global Pathogen Surveillance Act of 2002 authorizes enhanced bilateral and multilateral activities to improve the capacity of the United States and our partners in the international community to detect and contain infectious diseases and biological weapons. The Global Pathogen Surveillance Act will enhance the training, upgrade equipment and communications systems, and provide additional American expertise and assistance in international surveillance.

To better prepare our nation to meet the growing threat of bioterrorism, we must put in place and maintain a comprehensive framework including prevention, preparedness and consequence management. To accomplish this goal, we not only need to strengthen our local public health infrastructure domestically, but to work with our friends and neighbors in the global community to prevent, detect, and appropriately contain and respond to bioterrorist activities outside our borders. This is truly a global responsibility. Infectious diseases, such as smallpox, do not respect borders. If we can prevent their spread in other countries around the world, we can better protect our citizens here at home.

I applaud Senators HELMS and BIDEN for their leadership in this area. I look forward to working with them, and all of my colleagues to ensure that we provide appropriate authorities and funding to improve our international efforts to detect and contain infectious diseases and offensive biological threats.

By Mrs. CLINTON (for herself, Ms. SNOWE, Ms. MIKULSKI, and Mr. BREAUX):

S. 2489. A bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2489

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 ''Lifespan Respite Care Act of 2002''.

SEC. 2. LIFESPAN RESPITE CARE.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXVIII—LIFESPAN RESPITE CARE

''SEC. 2801. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) an estimated 26,000,000 individuals in the United States care each year for 1 or more adult family members or friends who are chronically ill, disabled, or terminally ill;

''(2) an estimated 18,000,000 children in the United States have chronic physical, developmental, behavioral, or emotional conditions that demand caregiver monitoring, management, supervision, or treatment beyond that required of children generally;

''(3) approximately 6,000,000 children in the United States live with a grandparent or other relative because their parents are unable or unwilling to care for them;

''(4) an estimated 165,000 children with disabilities in the United States live with a foster care parent;

''(5) nearly 4,000,000 individuals in the United States of all ages who have mental retardation or another developmental disability live with their families;

''(6) almost 25 percent of the Nation's elders experience multiple chronic disabling conditions that make it necessary to rely on others for help in meeting their daily needs;

''(7) every year, approximately 600,000 Americans die at home and many of these individuals rely on extensive family caregiving before their death;

''(8) of all individuals in the United States needing assistance in daily living, 42 percent are under age 65;

''(9) there are insufficient resources to replace family caregivers with paid workers;

''(10) if services provided by family caregivers had to be replaced with paid services, it would cost approximately $200,000,000,000 annually;

''(11) the family caregiver role is personally rewarding but can result in substantial emotional, physical, and financial hardship;

''(12) approximately 75 percent of family caregivers are women;

''(13) family caregivers often do not know where to find information about available respite care or how to access it;

''(14) available respite care programs are insufficient to meet the need and are directed at primarily lower income populations and family caregivers of the elderly, leaving large numbers of family caregivers without adequate support; and

''(15) the limited number of available respite care programs find it difficult to recruit appropriately trained respite workers.

''(b) PURPOSES.—The purposes of this title are—

''(1) to encourage States to establish State and local lifespan respite care programs;

''(2) to improve and coordinate the dissemination of respite care information and resources to family caregivers;

''(3) to provide, supplement, or improve respite care services to family caregivers;

''(4) to promote innovative, flexible, and comprehensive approaches to—

''(A) the delivery of respite care;

''(B) respite care worker and volunteer recruitment and training programs; and

''(C) training programs for family caregivers to assist such family caregivers in making informed decisions about respite care services;

''(5) to support evaluative research to identify effective respite care services that alleviate, reduce, or minimize any negative consequences of caregiving; and

''(6) to promote the dissemination of results, findings, and information from programs and research projects relating to respite care delivery, family caregiver strain, respite care worker and volunteer recruitment and training, and training programs for family caregivers that assist such family caregivers in making informed decisions about respite care services.

"SEC. 2802. DEFINITIONS.

''In this title:

''(1) ASSOCIATE ADMINISTRATOR.—The term 'Associate Administrator' means the Associate Administrator of the Maternal and Child Health Bureau of the Health Resources and Services Administration.

''(2) CONDITION.—The term 'condition' includes—

''(A) Alzheimer's disease and related disorders;

''(B) developmental disabilities;

''(C) mental retardation;

''(D) physical disabilities;

''(E) chronic illness, including cancer;

''(F) behavioral, mental, and emotional conditions;

''(G) cognitive impairments;

''(H) situations in which there exists a high risk of abuse or neglect or of being placed in the foster care system due to abuse and neglect;

''(I) situations in which a child's parent is unavailable due to the parent's death, incapacitation, or incarceration; or

''(J) any other conditions as the Associate Administrator may establish by regulation.

''(3) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

''(A) a State agency;

''(B) any other public entity that is capable of operating on a statewide basis;

''(C) a private, nonprofit organization that is capable of operating on a statewide basis;

''(D) a political subdivision of a State that has a population of not less than 3,000,000 individuals; or

''(E) any recognized State respite coordinating agency that has—

''(i) a demonstrated ability to work with other State and community-based agencies;

''(ii) an understanding of respite care and family caregiver issues; and

''(iii) the capacity to ensure meaningful involvement of family members, family caregivers, and care recipients.

''(4) FAMILY CAREGIVER.—The term 'family caregiver' means an unpaid family member, a foster parent, or another unpaid adult, who provides in-home monitoring, management, supervision, or treatment of a child or adult with a special need.

''(5) LIFESPAN RESPITE CARE.—The term 'lifespan respite care' means a coordinated system of accessible, community-based respite care services for family caregivers of individuals regardless of the individual's age, race, ethnicity, or special need.

''(6) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to an individual with a special need—

''(A) in order to provide temporary relief to the family caregiver of that individual; or

''(B) when the family caregiver of that individual is unable to provide care.

''(7) SPECIAL NEED.—The term 'special need' means the particular needs of an individual of any age who requires care or supervision because of a condition in order to meet the individual's basic needs or to prevent harm to the individual.

"SEC. 2803. LIFESPAN RESPITE CARE GRANTS AND COOPERATIVE AGREEMENTS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to expand and enhance respite care services to family caregivers;

''(2) to improve the statewide dissemination and coordination of respite care; and

''(3) to provide, supplement, or improve access and quality of respite care services to family caregivers, thereby reducing family caregiver strain.

''(b) AUTHORIZATION.—Subject to subsection (f), the Associate Administrator is authorized to award grants or cooperative agreements to eligible recipients who submit an application pursuant to subsection (d).

''(c) FEDERAL LIFESPAN APPROACH.—In carrying out this section, the Associate Administrator shall work in cooperation with the National Family Caregiver Support Program Officer of the Administration on Aging, and respite care program officers in the Administration for Children and Families, the Administration on Developmental Disabilities, and the Substance Abuse and Mental Health Services Administration, to ensure coordination of respite care services for family caregivers of individuals of all ages with special needs.

''(d) APPLICATION.—

''(1) SUBMISSION.—Each eligible recipient desiring to receive a grant or cooperative agreement under this section shall submit an application to the Associate Administrator at such time, in such manner, and containing such information as the Associate Administrator shall require.

''(2) CONTENTS.—Each application submitted under this section shall include—

''(A) a description of the applicant's—

''(i) understanding of respite care and family caregiver issues;

''(ii) capacity to ensure meaningful involvement of family members, family caregivers, and care recipients; and

''(iii) collaboration with other State and community-based public, nonprofit, or private agencies;

''(B) with respect to the population of family caregivers to whom respite care information or services will be provided or for whom respite care workers and volunteers will be recruited and trained, a description of—

''(i) the population;

''(ii) the extent and nature of the respite care needs of the population;

''(iii) existing respite care services for the population, including numbers of family caregivers being served and extent of unmet need;

''(iv) existing methods or systems to coordinate respite care information and services to the population at the State and local level and extent of unmet need;

''(v) how respite care information dissemination and coordination, respite care services, respite care worker and volunteer recruitment and training programs, or training programs for family caregivers that assist such family caregivers in making informed decisions about respite care services will be provided using grant or cooperative agreement funds;

''(vi) a plan for collaboration and coordination of the proposed respite care activities with other related services or programs offered by public or private, nonprofit entities, including area agencies on aging;

''(vii) how the population, including family caregivers, care recipients, and relevant public or private agencies, will participate in the planning and implementation of the proposed respite care activities;

''(viii) how the proposed respite care activities will make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, other forms of reimbursements, personnel, and facilities;

''(ix) respite care services available to family caregivers in the applicant's State or locality, including unmet needs and how the applicant's plan for use of funds will improve the coordination and distribution of respite care services for family caregivers of individuals of all ages with special needs;

''(x) the criteria used to identify family caregivers eligible for respite care services;

''(xi) how the quality and safety of any respite care services provided will be monitored, including methods to ensure that respite care workers and volunteers are appropriately screened and possess the necessary skills to care for the needs of the care recipient in the absence of the family caregiver; and

''(xii) the results expected from proposed respite care activities and the procedures to be used for evaluating those results; and

''(C) assurances that, where appropriate, the applicant shall have a system for maintaining the confidentiality of care recipient and family caregiver records.

''(e) REVIEW OF APPLICATIONS.—

''(1) ESTABLISHMENT OF REVIEW PANEL.—The Associate Administrator shall establish a panel to review applications submitted under this section.

''(2) MEETINGS.—The panel shall meet as often as may be necessary to facilitate the expeditious review of applications.

''(3) FUNCTION OF PANEL.—The panel shall—

''(A) review and evaluate each application submitted under this section; and

''(B) make recommendations to the Associate Administrator concerning whether the application should be approved.

''(f) AWARDING OF GRANTS OR COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—The Associate Administrator shall award grants or cooperative agreements from among the applications approved by the panel under subsection (e)(3).

''(2) PRIORITY.—When awarding grants or cooperative agreements under this subsection, the Associate Administrator shall give priority to applicants that show the greatest likelihood of implementing or enhancing lifespan respite care statewide.

''(g) USE OF GRANT OR COOPERATIVE AGREEMENT FUNDS.—

''(1) IN GENERAL.—

''(A) MANDATORY USES OF FUNDS.—Each eligible recipient that is awarded a grant or cooperative agreement under this section shall use the funds for, unless such a program is in existence—

''(i) the development of lifespan respite care at the State and local levels; and

''(ii) an evaluation of the effectiveness of such care.

''(B) DISCRETIONARY USES OF FUNDS.—Each eligible recipient that is awarded a grant or cooperative agreement under this section may use the funds for—

''(i) respite care services;

''(ii) respite care worker and volunteer training programs; or

''(iii) training programs for family caregivers to assist such family caregivers in making informed decisions about respite care services.

''(C) EVALUATION.—If an eligible recipient uses funds awarded under this section for an activity described in subparagraph (B), the eligible recipient shall use funds for an evaluation of the effectiveness of the activity.

''(2) SUBCONTRACTS.—Each eligible recipient that is awarded a grant or cooperative agreement under this section may use the funds to subcontract with a public or nonprofit agency to carry out the activities described in paragraph (1).

''(h) TERM OF GRANTS OR COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—The Associate Administrator shall award grants or cooperative agreements under this section for terms that do not exceed 5 years.

''(2) RENEWAL.—The Associate Administrator may renew a grant or cooperative agreement under this section at the end of the term of the grant or cooperative agreement determined under paragraph (1).

''(i) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds available for respite care services.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $90,500,000 for fiscal year 2003;
''(2) $118,000,000 for fiscal year 2004;
''(3) $145,500,000 for fiscal year 2005;
''(4) $173,000,000 for fiscal year 2006; and
''(5) $200,000,000 for fiscal year 2007.

''SEC. 2804. NATIONAL LIFESPAN RESPITE RESOURCE CENTER.

''(a) ESTABLISHMENT.—From funds appropriated under subsection (c), the Associate Administrator shall award a grant or cooperative agreement to a public or private nonprofit entity to establish a National Resource Center on Lifespan Respite Care (referred to in this section as the 'center').

''(b) PURPOSES OF THE CENTER.—The center shall—

''(1) maintain a national database on lifespan respite care;

''(2) provide training and technical assistance to State, community, and nonprofit respite care programs; and

''(3) provide information, referral, and educational programs to the public on lifespan respite care.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 2003 through 2007.''.

By Mr. TORRICELLI (for himself and Mr. SMITH of Oregon):

S. 2490. A bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the Medicare Program; to the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I rise today to join my colleague, Senator TORRICELLI, in introducing the Medicare Skilled Nursing Beneficiary Protection Act of 2002, a bill that will bring better care to thousands of Oregon seniors.

Nursing homes across America are in trouble, and it's not just Wall Street analysts who will tell you that. The people who rely on nursing home services the most can share with you their concerns about the future of skilled nursing care. Impending cuts to Medicare benefits for skilled nursing facilities will jeopardize the health and safety of some of our most vulnerable seniors and people with disabilities, and we cannot in good conscience allow these cuts to occur. The Medicare Skilled Nursing Beneficiary Protection Act of 2002 will prevent cuts to Medicare funding for nursing homes and will ensure that Medicare pays for the full cost of care rather than short-changing nursing facilities.

This bill will be particularly important for Oregon. My State of Oregon is home to an ever growing population of senior citizens, and we are predicted to be the 4th oldest State in the union by the year 2020. As our citizens age, and I am among that aging group, it will be essential that we have the capacity to care for our most needy seniors. Unfortunately, instead of increasing capacity we are seeing skilled nursing facilities close all over the country. This could have disastrous consequences for an already over-taxed health care system.

Without the Medicare Skilled Nursing Beneficiary Protection Act, Oregon's nursing homes will lose $37.58 per patient per day, and it is difficult to offer high quality services under those circumstances. We must work together to pass this important legislation to protect our seniors, and to ensure that skilled nursing facilities will still be there when the rest of us need them in only a few short years.

By Mr. INHOFE:

S. 2491. A bill to authorize the President to award a gold medal on behalf of Congress to the Choctaw and Comanche code talkers in recognition of the contributions provided by those individuals to the United States; to the Committee on Banking, Housing, and Urban Affairs.

Mr. INHOFE. Mr. President, today I rise to introduce a bill to honor a group of men who bravely served this country. I am proud to recognize the Choctaw and Comanche Code Talkers who joined the United States Armed Forces on foreign soil in the fight for freedom in two world wars.

During World War I, the Germans began tapping American lines, creating the need to provide secure communications. Despite the fact that American Indians were not citizens, 18 members of the Choctaw Nation enlisted to become the first American Indian soldiers to use their native language to transmit messages between the Allied forces.

At least one Choctaw man was placed in each field company headquarters. He would translate radio messages into the Choctaw language and then write field orders to be carried by messengers between different companies on the battle line. Fortunately, because Choctaw was an unwritten language only understood by those who spoke it, the Germans were never able to break the code.

The 18 Choctaw Code Talkers who served in the 142nd Infantry Company of the 36th Division were: Albert Billy, Victor Brown, Mitchell Bobb, Ben Carterby, George Davenport, Joe Davenport, James Edwards, Tobias Frazier, Ben Hampton, Noel Johnson, Otis Leader, Soloman Louis, Pete Maytubby, Jeff Nelson, Joseph Oklahombi, Robert Taylor, Walter Veach, and Calvin Wilson.

Similarly, the Comanche Code Talkers played an important role during World War II. Once again, the enemy began tapping American lines. In order to establish the secure transmission of messages, the United States enlisted fourteen Comanche Code Talkers who served overseas in the 4th Signal Company of the 4th Infantry Division. They were: Charles Chibitty, Haddon Codynah, Robert Holder, Forrest Kassanavoid, Wellington Mihecoby, Albert Nahquaddy, Jr., Clifford Ototivo, Simmons Parker, Melvin Permansu, Elgin Red Elk, Roderick Red Elk, Larry Saupitty, Morris Tabbyetchy, and Willis Yackeshi.

The Army chose the Comanches because their language was thought to be the least known to the Germans. Second Lieutenant Hugh Foster worked with them to develop their own unique code for military words. He gave the Indians a list of military words and then worked with them to develop a Comanche word or phrase for those words.

On June 6, 1944, just after landing in Normandy, a Comanche trained by Lt. Foster and serving as a driver and radio operator under Brigadier General Theodore Roosevelt, Jr, sent one of the first messages from Utah Beach. These communications efforts, by the Comanches, helped the Allies win the war in Europe.

It is time Congress officially recognizes these men. My bill directs the Secretary of the Treasury to award the Choctaw and Comanche Code Talkers a gold medal as a result of their great commitment and service on behalf of the United States during World Wars I and II. I welcome my colleagues to join me in saluting this group of heroes for contributing to the fight for freedom for our country and around the world.

By Mr. CLELAND:

S. 2492. A bill to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes; to the Committee on Governmental Affairs.

Mr. CLELAND. Mr. President, I rise today to introduce legislation, the Federal Agency Protection of Privacy Act, that will require Federal agencies to carefully consider the impact of proposed regulations on individual privacy. In the aftermath of the terrorist attacks of September 11, we are being forced to fight a new kind of war; a war in which we have not only physical battlefields, but battlefields of principle.

Not only must we have troops on the ground protecting our physical well-being, but we must also insure that we protect the American way of life. Ours is a country based on individual rights—rights to pursue life, liberty, and happiness, as Thomas Jefferson mentioned in the manner in which each of us sees fit.

While we are obligated, as a Government, to protect the physical safety of the American people, we also are obligated to remember our history, our struggles, and the principles for which our great Nation stands. While we enhance and strengthen our investigatory tools and physical arsenal, we cannot allow the terrorists to prevail in undermining our civil liberties.

Therefore, today, I am introducing the Federal Agency Protection of Privacy Act in the Senate as companion legislation to H.R. 4561, which was introduced by Representative BOB BARR, a long-time champion of civil liberties in the U.S. Congress. It will impose a mandate that when Federal agencies are required to publish a general notice of proposed rulemaking, they must publish an accompanying ''privacy impact statement.'' This initial privacy

impact statement, written in terms which all of us can understand, would be subject to public notice and comment. After receiving and evaluating any comments, the agency would then be required to include a final privacy impact statement with the regulation.

These initial and final privacy impact statements would include: the type of information to be collected and how it would be used; mechanisms through which individuals could correct inaccuracies in the collected information; assurances that the information would not be used for a purpose other than initially specified; and a description of how the information will be secured by the agency. For example, the Financial Crime Enforcement Network of the Department of the Treasury has proposed a rule implementing provisions of the USA PATRIOT Act of 2001 which would encourage financial institutions and Federal law enforcement agencies to share information in order to identify and deter money laundering and terrorist activity. While I fully support the Patriot Act and recognize the benefits of such a rule, the sensitivity of such information necessitates that we insure that the agency consider the ramifications of such an invasion on an individual's privacy. The American people must know specifically how this financial information would be used and how it would be protected. The purpose, importance, and timeliness of this legislation have brought together a wide variety of supporting organizations, ranging from the American Civil Liberties Union to the National Rifle Association to Public Citizen.

While I have been and continue to be a strong supporter of the war on terrorism, I am also well aware that we face a multi-faceted enemy. My experience has taught me that diverse threats necessitate diverse responses. We have planned for our offensives on the ground and in the air, and we have begun to mount a stronger homeland defense. But our efforts will be incomplete and will indeed run the risk of undermining all else we may accomplish in the fight against terrorism if we neglect to mount a successful defense of the American way. I believe that this legislation is necessary to protect the American people from attacks seen and unseen, and I encourage other Senators to join me in protecting the liberties for which I know we all stand.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2492

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 Agency Protection of Privacy Act''.

SEC. 2. REQUIREMENT THAT AGENCY RULEMAKING TAKE INTO CONSIDERATION IMPACTS ON INDIVIDUAL PRIVACY.

(a) IN GENERAL.—Title 5, United States Code, is amended by adding after section 553 the following:

''§ 553a. Privacy impact analysis in rulemaking

''(a) INITIAL PRIVACY IMPACT ANALYSIS.—

''(1) IN GENERAL.—Whenever an agency is required by section 553 of this title, or any other law, to publish a general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial privacy impact analysis. Such analysis shall describe the impact of the proposed rule on the privacy of individuals. The initial privacy impact analysis or a summary shall be signed by the senior agency official with primary responsibility for privacy policy and be published in the Federal Register at the time of the publication of a general notice of proposed rulemaking for the rule.

''(2) CONTENTS.—Each initial privacy impact analysis required under this subsection shall contain the following:

''(A) A description and assessment of the extent to which the proposed rule will impact the privacy interests of individuals, including the extent to which the proposed rule—

''(i) provides notice of the collection of personally identifiable information, and specifies what personally identifiable information is to be collected and how it is to be collected, maintained, used, and disclosed;

''(ii) allows access to such information by the person to whom the personally identifiable information pertains and provides an opportunity to correct inaccuracies;

''(iii) prevents such information, which is collected for one purpose, from being used for another purpose; and

''(iv) provides security for such information.

''(B) A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant privacy impact of the proposed rule on individuals.

''(b) FINAL PRIVACY IMPACT ANALYSIS.—

''(1) IN GENERAL.—Whenever an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States, the agency shall prepare a final privacy impact analysis, signed by the senior agency official with primary responsibility for privacy policy.

''(2) CONTENTS.—Each final privacy impact analysis required under this subsection shall contain the following:

''(A) A description and assessment of the extent to which the final rule will impact the privacy interests of individuals, including the extent to which the proposed rule—

''(i) provides notice of the collection of personally identifiable information, and specifies what personally identifiable information is to be collected and how it is to be collected, maintained, used, and disclosed;

''(ii) allows access to such information by the person to whom the personally identifiable information pertains and provides an opportunity to correct inaccuracies;

''(iii) prevents such information, which is collected for one purpose, from being used for another purpose; and

''(iv) provides security for such information.

''(B) A summary of the significant issues raised by the public comments in response to the initial privacy impact analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such issues.

''(C) A description of the steps the agency has taken to minimize the significant privacy impact on individuals consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the privacy interests of individuals was rejected.

''(3) AVAILABILITY TO PUBLIC.—The agency shall make copies of the final privacy impact analysis available to members of the public and shall publish in the Federal Register such analysis or a summary thereof.

''(c) PROCEDURE FOR WAIVER OR DELAY OF COMPLETION.—An agency head may waive or delay the completion of some or all of the requirements of subsections (a) and (b) to the same extent as the agency head may, under section 608, waive or delay the completion of some or all of the requirements of sections 603 and 604, respectively.

''(d) PROCEDURES FOR GATHERING COMMENTS.—When any rule is promulgated which may have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that individuals have been given an opportunity to participate in the rulemaking for the rule through techniques such as—

''(1) the inclusion in an advance notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals;

''(2) the publication of a general notice of proposed rulemaking in publications of national circulation likely to be obtained by individuals;

''(3) the direct notification of interested individuals;

''(4) the conduct of open conferences or public hearings concerning the rule for individuals, including soliciting and receiving comments over computer networks; and

''(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by individuals.

''(e) PERIODIC REVIEW OF RULES.—

''(1) IN GENERAL.—Each agency shall carry out a periodic review of the rules promulgated by the agency that have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals. Under such periodic review, the agency shall determine, for each such rule, whether the rule can be amended or rescinded in a manner that minimizes any such impact while remaining in accordance with applicable statutes. For each such determination, the agency shall consider the following factors:

''(A) The continued need for the rule.

''(B) The nature of complaints or comments received from the public concerning the rule.

''(C) The complexity of the rule.

''(D) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules.

''(E) The length of time since the rule was last reviewed under this subsection.

''(F) The degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since the rule was last reviewed under this subsection.

''(2) PLAN REQUIRED.—Each agency shall carry out the periodic review required by paragraph (1) in accordance with a plan published by such agency in the Federal Register. Each such plan shall provide for the review under this subsection of each rule promulgated by the agency not later than 10 years after the date on which such rule was published as the final rule and, thereafter, not later than 10 years after the date on which such rule was last reviewed under this subsection. The agency may amend such plan at any time by publishing the revision in the Federal Register.

''(3) ANNUAL PUBLICATION.—Each year, each agency shall publish in the Federal Register a list of the rules to be reviewed by such agency under this subsection during the following year. The list shall include a brief description of each such rule and the need for and legal basis of such rule and shall invite public comment upon the determination to be made under this subsection with respect to such rule.

''(f) JUDICIAL REVIEW.—

''(1) IN GENERAL.—For any rule subject to this section, an individual who is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of subsections (b) and (c) in accordance with chapter 7. Agency compliance with subsection (d) shall be judicially reviewable in connection with judicial review of subsection (b).

''(2) JURISDICTION.—Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with subsections (b) and (c) in accordance with chapter 7. Agency compliance with subsection (d) shall be judicially reviewable in connection with judicial review of subsection (b).

''(3) LIMITATIONS.—

''(A) An individual may seek such review during the period beginning on the date of final agency action and ending 1 year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, such lesser period shall apply to an action for judicial review under this subsection.

''(B) In the case where an agency delays the issuance of a final privacy impact analysis pursuant to subsection (c), an action for judicial review under this section shall be filed not later than—

''(i) 1 year after the date the analysis is made available to the public; or

''(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

''(4) RELIEF.—In granting any relief in an action under this subsection, the court shall order the agency to take corrective action consistent with this section and chapter 7, including, but not limited to—

''(A) remanding the rule to the agency; and

''(B) deferring the enforcement of the rule against individuals, unless the court finds that continued enforcement of the rule is in the public interest.

''(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this subsection.

''(6) RECORD OF AGENCY ACTION.—In an action for the judicial review of a rule, the privacy impact analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (4), shall constitute part of the entire record of agency action in connection with such review.

''(7) EXCLUSIVITY.—Compliance or noncompliance by an agency with the provisions of this section shall be subject to judicial review only in accordance with this subsection.

''(8) SAVINGS CLAUSE.—Nothing in this subsection bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.

''(g) DEFINITION.—In this section, the term 'personally identifiable information'—

''(1) means information that can be used to identify an individual, including such individual's name, address, telephone number, photograph, social security number or other identifying information; and

''(2) includes information about such individual's medical or financial condition.''.

(b) PERIODIC REVIEW TRANSITION PROVISIONS.—

(1) INITIAL PLAN.—For each agency, the plan required by subsection (e) of section 553a of title 5, United States Code (as added by subsection (a)), shall be published not later than 180 days after the date of enactment of this Act.

(2) PRIOR RULES.—In the case of a rule promulgated by an agency before the date of the enactment of this Act, such plan shall provide for the periodic review of such rule before the expiration of the 10-year period beginning on the date of the enactment of this Act. For any such rule, the head of the agency may provide for a 1-year extension of such period if the head of the agency, before the expiration of the period, certifies in a statement published in the Federal Register that reviewing such rule before the expiration of the period is not feasible. The head of the agency may provide for additional 1-year extensions of the period pursuant to the preceding sentence, but in no event may the period exceed 15 years.

(c) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B) of title 5, United States Code, is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

''(iii) the agency's actions relevant to section 553a;''.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding after the item relating to section 553 the following:

''553a. Privacy impact analysis in rulemaking.''.

By Mr. DASCHLE (for himself, Mr. KENNEDY, and Mr. DODD):

S. 2493. A bill to amend the immigration and Nationality Act to provide a limited extension of the program under section 245(i) of that Act; to the Committee on the Judiciary.

Mr. DASCHLE. Mr. President, yesterday, the House passed the border security legislation, and I expect it will become law very soon. Passage of the border security bill was an important first step in moving forward with comprehensive immigration reform, and it was one of the Democratic Principles that Representative GEPHARDT and I introduced last fall.

Unfortunately, another important provision was not included in the border security legislation, the extension of section 245(i). It would allow families to stay together in this country while waiting to become permanent residents.

As I have said on many occasions, I am strongly committed to a meaningful 245(i) extension. Regrettably, the House waited 6 months to act on 245(i) legislation that the Senate passed last September. This delay meant that key provisions in the bill became unworkable. The House-passed version contained hard deadlines that would have required applicants to have established familial or employment relationships before August 2001. These deadlines would have imposed impractical hurdles for immigrant families to overcome.

Today, I am pleased to announce that I am introducing a new 245(i) extension bill that would remove these hard deadlines. My bill would move the application deadline to April 30, 2003, and maintain current prohibitions against fraudulent marriages and national security protections.

This bill mirrors the version that was introduced by Senators HAGEL and KENNEDY last spring, and it should receive strong bipartisan support. I know both the President and Senator LOTT have repeatedly expressed their desire to pass 245(i) legislation. It is my hope that they will work with me to help get it passed very soon.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2493

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 ''Uniting Families Act of 2002''.

SEC. 2. LIMITED EXTENSION OF SECTION 245(i) PROGRAM.

(a) EXTENSION OF FILING DEADLINE.—Section 245(i)(1)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)(B)(i)) is amended by striking ''on or before April 30, 2001'' and inserting ''on or before April 30, 2003''.

(b) EXCLUSION OF CERTAIN INADMISSIBLE AND DEPORTABLE ALIENS.—The amendment made by subsection (a) shall not apply to any alien who is—

(1) inadmissible under section 212(a)(3), or deportable under section 237(a)(4), of the Immigration and Nationality Act (relating to security and related grounds); or

(2) deportable under section 237(a)(1)(G) of such Act (relating to marriage fraud).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applicants for adjustment of status who are beneficaries of petitions for classification or applications for labor certifications filed before, on, or after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, since September 11, Congress has taken significant steps to strengthen the security of our borders and improve our immigration system. Last month, the Senate passed important legislation to strengthen border security, improve our ability to screen foreign nationals, and enhance our ability to deter potential terrorists. In addition, Senator BROWNBACK and I recently introduced legislation to restructure the Immigration and Naturalization Service so that the agency is better prepared to address security concerns.

As we work to respond to the security issues before us, we can't lose sight of the other immigration issues that are still a priority. I'm pleased to join Senator DASCHLE in moving forward with one of those issues today by introducing the Uniting Families Act of 2002. This legislation extends section 245(i), a vital provision of U.S. immigration law which allows individuals who already legally qualify for permanent residency to process their applications in the United States, without returning to their homes countries.

Without 245(i), immigrants are forced to leave their families here in the U.S. and risk separation from them for up to 10 years. Seventy-five percent of the people who have used 245(i) are the spouses and children of U.S. citizens and permanent residents. Extending this critical provision will help keep families together and help businesses retain critical workers. In addition, the INS will receive millions of dollars in additional revenues, at no cost to taxpayers.

Extending 245(i) does not provide any loopholes for potential terrorists. Instead, it will improve the monitoring of immigrants already residing in this country. Individuals who qualify for permanent residency and process their applications in the U.S. are subject to rigorous background checks and interviews. This process provides the government a good opportunity to investigate individuals who are in this country and determine whether they should be allowed to remain here.

Section 245(i) does not provide amnesty to immigrants or any benefits to anyone suspected of marriage fraud. The provision provides no protection from deportation if someone is here illegally and no right to surpass other immigrants waiting for visas.

The House passed legislation recently to extend section 245(i), but it was too restrictive to provide any meaningful assistance. The Uniting Families Act will extend the filing deadline to April 30, 2003, and provide needed and well-deserved relief to members of our immigrant communities.

I urge my colleagues to join us in supporting this needed extension.

By Mr. McCAIN:

S. 2494. A bill to revise the boundary of the Petrified Forest National Park in the State of Arizona and for other purposes; to the Committee on Energy and Natural Resources.

Mr. McCAIN. Mr. President, I rise to introduce legislation to authorize expansion of the Petrified Forest National Park in Arizona.

The Petrified Forest National Park is a national treasure among the Nation's parks, renowned for its large concentration of highly colored petrified wood, fossilized remains, and spectacular landscapes. However, it is much more than a colorful, scenic vista, for the Petrified Forest has been referred to as ''one of the world's greatest storehouses of knowledge about life on earth when the Age of the Dinosaurs was just beginning.''

For anyone who has ever visited this Park, one is quick to recognize the wealth of scenic, scientific, and historical values of this Park. Preserved deposits of petrified wood and related fossils are among the most valuable representations of Triassic-period terrestrial ecosystems in the world. These natural formations were deposited more than 220 million years ago. Scenic vistas, designated wilderness areas, and other historically significant sites of pictographs and Native American ruins are added dimensions to the Park.

The Petrified Forest was originally designated as a National Monument by former President Theodore Roosevelt in 1906 to protect the important natural and cultural resources of the Park, and later re-designated as a National Park in 1962. While several boundary adjustments were made to the Park, a significant portion of unprotected resources remain in outlying areas adjacent to the Park.

A proposal to expand the Park's boundaries was recommended in the Park's General Management Plan in 1992, in response to concerns about the long-term protection needs of globally significant resources and the Park's viewshed in nearby areas. For example, one of the most concentrated deposits of petrified wood is found within the Chinle encarpment, of which only thirty percent is included within the current Park boundaries.

Increasing reports of theft and vandalism around the Park have activated the Park, local communities, and other interested entities to seek additional protections through a proposed boundary expansion. It has been estimated that visitors to the Park steal about 12 tons of petrified wood every year. Other reports of destruction to archaeological sites and gravesites have also been documented. Based on these continuing threats to resources intrinsic to the Park, the National Parks Conservation Association listed the Petrified Forest National Park on its list of Top Ten Most Endangered Parks in 2000.

Support for this proposed boundary expansion is extraordinary, from the local community of Holbrook, scientific and research institutions, state tourism agencies, and environmental groups, such as the National Park Conservation Association, NPCA. I ask unanimous consent that a resolution from the City of Holbrook and a letter of support from NPCA be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION NO. 00–15

A RESOLUTION OF THE CITY OF HOLBROOK, ARIZONA ENDORSING THE EXPANSION OF PETRIFIED FOREST NATIONAL PARK

Whereas, Petrified Forest National Park, first established in 1906, is a priceless and irreplaceable part of America's heritage; and

Whereas, Petrified Forest National Park contains a variety of significant natural and cultural resources, including portions of the Painted Desert and some of the most valuable paleontological resources in the world; and

Whereas, Petrified Forest National Park has inspired and educated millions of visitors from all over the world, and is cherished as a national treasure to be protected for the benefit and enjoyment of present and future generations; and

Whereas, the Chinle Formation which creates the spectacularly beautiful landscapes of the Painted Desert, Blue Mesas, and other park features, is probably the best place in the world for studying the Triassic period of the earth's history; and

Whereas, globally and nationally significant paleontological, archaeological, and scenic resources directly related to the resource values of Petrified Forest National Park, including approximately 70 percent of the Chinle Formation, are not included within the current boundary; and

Whereas, the newly approved General Management Plan for the park, prepared by the National Park Service with broad public input, has identified about 97,000 acres of land that, if included as part of the park, would lead to protection of the remainder of this globally significant Chinle Formation, along with highly significant archaeological resources, and would protect the beautiful, expansive vistas seen from the park; and

Whereas, land use patterns in the area of the park are beginning to change, potentially threatening the protection of the park and the broader setting in which it is placed; and

Whereas, implementing the General Management Plan is essential to carry out a vision for Petrified Forest National Park that will better protect park resources, enhance research opportunities, broaden and diversify visitor experiences, improve visitor service, and help contribute to the sustainability of the regional economy into the 21st century; and

Whereas, an excellent opportunity now exists to include adjacent areas of significant resources inside the park boundary because other landowners in the region, including the State of Arizona, and the Bureau of Land Management, and other private landowners recognize the significance of the resources on their lands and have expressed interest in seeing them preserved in perpetuity for the benefit and inspiration of this and future generations: Now, therefore, be it

Resolved, That the City of Holbrook, Arizona, hereby recommends and supports the inclusion within Petrified Forest National Park of all lands identified in the park's General Management Plan as desirable boundary additions, and supports all continuing efforts to enact legislation to accomplish this task and to complete the federal acquisition of this land. Be it further

Resolved, That the Clerk of the City of Holbrook is directed to immediately transmit this Resolution to the Governor of the State of Arizona, Arizona's Congressional delegation, and the Director of the National Park

Service, together with a letter requesting prompt and ongoing support for completing the park expansion.

NATIONAL PARKS CONSERVATION ASSOCIATION,
Washington, DC, May 9, 2002.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR MCCAIN: The National Parks Conservation Association (NPCA) commends you for your leadership and vision in introducing the Petrified Forest National Park Expansion Act of 2002. Ever since NPCA published a Park Boundary Study for various national parks in 1988, we have been advocating the need for this expansion. With private landowners anxious to sell their land, we believe the time is ripe for this expansion.

It is hard to imagine a better example of an outdoor classroom than Petrified Forest National Park. This boundary expansion will ensure long-term protection of globally significant paleontological resources, potentially nationally significant archaeological resources where there is substantial evidence of early habitation, and the park's viewshed. It will also alleviate the threat of encroaching incompatible development and will greatly enhance the National Park Service's capability to protect the resources from vandalism and illegal pothunting.

Just as Theodore Roosevelt recognized the importance of preserving this land when he proclaimed Petrified Forest a national monument in 1906, your legislation would ensure that future generations can learn even more from this amazing landscape that capture's the world's best record of Triassic-period terrestrial ecosystems and prehistoric human occupation through an array of artifacts and ''trees turned to stone.''

NPCA looks forward to working with you and your staff to advance this legislation.

Sincerely,

THOMAS C. KIERNAN.

Mr. MCCAIN. Mr. President, editorials from Arizona State newspapers also encourage a boundary expansion for the Park. I ask unanimous consent that articles from the Arizona Republic and the Holbrook Tribune News regarding the park expansion proposal be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, May 3, 2002]

EXPANDING PETRIFIED FOREST CAN SAVE TREASURES—POTHUNTERS, LOOTERS RAVAGING PARK AREA

Looters and pothunters are ravaging the land around Petrified Forest National Park.

The property should be inside the park. A decade ago, the Park Service decided Petrified Forest's boundaries should be expanded to include the priceless paleontology, archaeology and other resources in adjoining areas.

But the proposal has rarely gotten off the congressional back burner.

Until now.

Arizona Republicans Rep. J.D. Hayworth and Sen. John McCain are preparing bills to expand Petrified Forest. The plan is to add 140,000 acres, more than doubling the 93,500-acre park.

They can't move too fast.

The assets they're trying to protect are under heavy assault.

A pothunter recently smashed through an 800-year-old prehistoric Indian site while searching for booty. Someone else unearthed a massive petrified tree, nearly 5 feet in diameter, and prepared to hack it into marketable chunks.

Last year, we urged Congress to approve the park expansion. Since then, looters have wrecked about 400 gravesites near the park's eastern boundary.

Congress has been understandably preoccupied with other issues. But a critical window of opportunity is about to close.

Elections are coming up, and Arizona's new, larger delegation could take time to come together on this issue. Landowners around Petrified Forest are tired of waiting to sell to the government and are beginning to subdivide their land. The National Parks Conservation Association, and Albuquerque-based non-profit group, is running out of resources to push for the expansion.

And the destruction, of course, continues unabated.

BOUNDARIES MISJUDGED

When Petrified Forest was protected almost a century ago, originally as a national monument, the goal was simple: Save some pretty fossilized wood. And that's how the boundaries were picked.

Now we realize that area in northeastern Arizona is a treasure chest, with world-class paleontology, pueblo ruins, striking petroglyphs and, of course, the marvelous trees that turned to stone millions of years ago.

But without a park expansion, many of these treasures will remain outside the protection of federal law. Among them:

The Chinle Escarpment, now only partially within the park, has the world's best terrestrial fossils of plants and animals from the late Triassic period, including early dinosaurs. The escarpment has yielded the earliest known sample of amber.

Rainbow Forest Badlands are rich in fossils and include grazing land for the national park's herd of pronghorn antelope

Dead Wash Petroglyphs has panels of rock art and pueblo sites of prehistoric people.

Canyon Butte, a dramatic landmark, includes pueblo ruins with signs of warfare.

Expanding the park's boundaries appears unlikely to stir controversy in Congress. Sen. Jon Kyl, R–Ariz., previously landed $2 million in federal funding for land purchases.

But we all know that the best ideas can get lost in the blizzard of bills in Congress.

We applaud Hayworth and McCain for pressing forward with the park expansion. While there's still something left to save.

[From the Holbrook (AZ) Tribune-News, Oct. 27, 2000]

PARK'S PROPOSED EXPANSION

Now under study is a plan to expand the Petrified Forest National Park's boundaries by about 97,000 acres to afford protection to this priceless natural treasure. It deserves our interest and support.

Thanks to the efforts of President Theodore Roosevelt and others back in 1906, the park has been preserved for us to enjoy nearly a century later. Now it is time to take the necessary steps to protect the park for our posterity.

The land involved surrounds the existing park. Some of it is publicly owned, and some is privately owned.

Presumably the public agencies owning property adjacent to the park understand how important it is to enlarge the park and offer protection to its resources. It is my understanding that most, if not all, of the major private property owners also support this expansion plan.

The problem is that as these privately owned parcels are subdivided, it makes it more and more difficult to acquire the property for the expansion. And each year, the issue will become more difficult, with more owners to deal with.

The addition of this acreage to the Petrified Forest National Park will help preserve these natural and cultural heritage areas, and it is my hope that necessary steps will be taken to accomplish this program.

We have been fortunate to have foresighted people in the past who have maintained this wonderful place for us, and we must be equally diligent now to see that our children and grandchildren will have it to enjoy for years in the future.

Mr. MCCAIN. The legislation I am introducing today is intended to serve as a placeholder bill for further development of a boundary expansion proposal. Several key issues remain that require resolution, including the exact definition of the expanded boundary acreage, and the disposition, and possible acquisition, of private, Federal, and State lands within the proposed expansion area.

It's encouraging to note that the four major landowners within the proposed boundary expansion area have expressed interest in the Park expansion. Other public landowners, primarily the State of Arizona and the Bureau of Land Management, have recognized the significance of the paleontological resources on its lands adjacent to the Park. The Arizona State Trust Land Department closed nearby State trust lands to both surface and subsurface applications. Additionally, the Bureau of Land Management has identified its land-holdings within the proposed expansion area for disposal and possible transfer to the Park.

Other issues involving additional private landholders and State trust lands must still be resolved. In particular, the State of Arizona has specific concerns which must be addressed as the legislation moves through the process, particularly with regard to compensation to the State for any acquisitions of State trust lands by the Secretary of Interior, in keeping with the requirements of State law.

I fully intend to address these issues in consultation with affected entities and resolve any additional questions within a reasonable time-frame. A historic opportunity exists to alleviate major threats to these nationally significant resources and preserve them for our posterity.

I look forward to working with my colleagues on both sides of the aisle to ensure swift consideration and enactment of this proposal. Time is of the essence to ensure the long-term protection of these rare and important resources for the enjoyment and educational value for future generations.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2494

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 ''Petrified Forest National Park Expansion Act of 2002''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Petrified Forest National Park was established—

(A) to preserve and interpret the globally significant paleontological resources of the Park that are generally regarded as the most important record of the Triassic period in natural history; and

(B) to manage those resources to retain significant cultural, natural, and scenic values;

(2) significant paleontological, archaeological, and scenic resources directly related to the resource values of the Park are located in land areas adjacent to the boundaries of the Park;

(3) those resources not included within the boundaries of the Park—

(A) are vulnerable to theft and desecration; and

(B) are disappearing at an alarming rate;

(4) the general management plan for the Park includes a recommendation to expand the boundaries of the Park and incorporate additional globally significant paleontological deposits in areas adjacent to the Park—

(A) to further protect nationally significant archaeological sites; and

(B) to protect the scenic integrity of the landscape and viewshed of the Park; and

(5) a boundary adjustment at the Park will alleviate major threats to those nationally significant resources.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary of the Interior to acquire 1 or more parcels of land—

(1) to expand the boundaries of the Park; and

(2) to protect the rare paleontological and archaeological resources of the Park.

SEC. 3. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''Proposed Boundary Adjustments, Petrified Forest National Park'', numbered ___, and dated _____.

(2) PARK.—The term ''Park'' means the Petrified Forest National Park in the State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of Arizona.

SEC. 4. BOUNDARY REVISION.

(a) IN GENERAL.—The boundary of the Park is revised to include approximately _____ acres, as generally depicted on the map.

(b) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ACQUISITION OF ADDITIONAL LAND.

(a) PRIVATE LAND.—The Secretary may acquire from a willing seller, by purchase, exchange, or by donation, any private land or interests in private land within the revised boundary of the Park.

(b) STATE LAND.—

(1) IN GENERAL.—The Secretary may, with the consent of the State and in accordance with State law, acquire from the State any State land or interests in State land within the revised boundary of the Park by purchase or exchange.

(2) PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary shall, in coordination with the State, develop a plan for acquisition of State land or interests in State land identified for inclusion within the revised boundary of the Park.

SEC. 6. ADMINISTRATION.

(a) IN GENERAL.—Subject to applicable laws, all land and interests in land acquired under this Act shall be administered by the Secretary as part of the Park.

(b) TRANSFER OF JURISDICTION.—The Secretary shall transfer to the National Park Service administrative jurisdiction over any land under the jurisdiction of the Secretary that—

(1) is depicted on the map as being within the boundaries of the Park; and

(2) is not under the administrative jurisdiction of the National Park Service on the date of enactment of this Act.

(c) GRAZING.—

(1) IN GENERAL.—The Secretary shall permit the continuation of grazing on land transferred to the Secretary under this Act, subject to applicable laws (including regulations) and Executive orders.

(2) TERMINATION OF LEASES OR PERMITS.—Nothing in this subsection prohibits the Secretary from accepting the voluntary termination of a grazing permit or grazing lease within the Park.

(d) AMENDMENT TO GENERAL MANAGEMENT PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the general management plan for the Park to address the use and management of any additional land acquired under this Act.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. DOMENICI (for himself, Mr. BIDEN, Mr. LOTT, Mr. DASCHLE, Mr. SHELBY, Mr. REID, Mr. NICKLES, Mr. TORRICELLI, Mr. BURNS, Mr. SCHUMER, Mr. GREGG, Mrs. CLINTON, Mr. DEWINE, Mr. MCCAIN, Mr. MCCONNELL, Mr. CHAFEE, Mr. ALLARD, Mr. BROWNBACK, Mr. CRAPO, Mr. SANTORUM, Mr. COCHRAN, Mr. BOND, Mrs. HUTCHISON, Mr. THOMPSON, Ms. COLLINS, Mr. CRAIG, Mr. KYL, Mr. ENSIGN, Mr. INHOFE, Mr. ALLEN, Mr. HAGEL, Mr. VOINOVICH, Mr. STEVENS, Mr. WARNER, Mr. SPECTER, Mr. SMITH of Oregon, Mr. BUNNING, Mr. SMITH of New Hampshire, and Mr. INOUYE):

S. 2495. A bill to designate the United States courthouse located at 100 Federal Plaza in Central Islip, New York, as the ''Alfonse M. D'Amato United States Courthouse''; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, I rise today to introduce a bill in honor of former Senator Alfonse M. D'Amato on behalf of myself and 40 of my colleagues thus far. I am sure there will be more.

It recently came to my attention that the Federal courthouse in Central Islip, Long Island, did not have a name so I thought to myself: What a shame. This beautiful new courthouse does not even have a name, and I concluded that it was time to rectify the oversight. Who better than Alfonse D'Amato, a great Senator from New York, who had more than a little bit to do with providing the people of the Empire State with public buildings to conduct the business of government and justice. Forty of my colleagues concur that we ought to name this U.S. courthouse the ''Alfonse M. D'Amato United States Courthouse.'' I believe that is the right thing to do. I understand the U.S. Representatives from New York are moving similar legislation through their body.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2495

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

SECTION 1. DESIGNATION.

The United States courthouse located at 100 Federal Plaza in Central Islip, New York, shall be known and designated as the ''Alfonse M. D'Amato United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Alfonse M. D'Amato United States Courthouse''.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2498. A bill to amend the Internal Revenue Code of 1986 to require adequate disclosure of transactions which have a potential for tax avoidance or evasion, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, Garrison Keillor is quoted as saying, ''I believe in looking reality straight in the eye and denying it.'' That approach is perhaps what some would like us to do with respect to the increasing problem of the use of abusive tax shelters to avoid or evade taxes. But I do not agree.

The Tax Shelter Transparency Act that I introduce today doesn't deny reality, rather, it shines some transparency on reality so that we have a better understanding of what is going on out there. Following Enron's bankruptcy, I think that all Americans have a greater appreciation for the need for greater transparency in complex tax transactions.

The legislation is the product of over 2 years of review and public comment. The Tax Shelter Transparency Act also incorporates tax shelter proposals released by the Department of the Treasury the day before the Senate Finance Committee's March 21, 2002 hearing on the subject.

As I stated at the hearing, ''the Finance Committee is committed to helping combat these carefully engineered transactions. These transactions have little or no economic substance, are designed to achieve unwarranted tax benefits rather than business profit, and place honest corporate competitors at a disadvantage.''

The proliferation of tax shelters has been called ''the most significant compliance problem currently confronting our system of self-assessment.'' Less than 2 years ago, there was a more positive outlook regarding the Government's ability to curb the promotion and use of abusive tax shelters. The Department of the Treasury and the IRS

issued regulations requiring disclosure of certain transactions and requiring developers and promoters of tax-engineered transactions to maintain customer lists. Also, the IRS had prevailed in several court cases against the use of transactions lacking in economic substance.

Unfortunately, the honesty and integrity of our tax system has suffered significant blows over the past 2 years. Court decisions have shifted from decisions tough on tax avoidance and evasion to court defeats for the IRS. Also, there appears to be a lack of compliance with the disclosure legislation passed in 1997 and the subsequent regulations.

The corporate tax returns filed in 2001 are the first returns filed under the new tax shelter disclosure requirements. The administration provided the Finance Committee with the results of their analysis of the disclosure data, including their analysis of what was not disclosed.

Only 272 transactions were disclosed by 99 corporate taxpayers. There are approximately 100,000 corporate taxpayers under the Large and Midsize Business Division at the IRS yet only 99 of them made a disclosure under the current regime. Based on the Finance Committee hearing, it is safe to say that the administration, as did Congress, thought the number of disclosures would be much greater.

Clearly, the past method of reactive, ad-hoc closing down of abusive transactions does little to discourage the creation and exploitation of many shelters.

These transactions may be good for a corporation's bottom line, but they are bad for the economy. Here's why: abusive corporate tax shelters create a tax benefit without any corresponding economic benefit. There's no new product. No technological innovation. Just a tax break.

As with the Senate Finance Committee draft legislation released last August, the Tax Shelter Transparency Act emphasizes disclosure. Disclosure is critical to the Government's ability to identify and address abusive tax avoidance and evasion arrangements. Under the bill, if the taxpayer has entered into a questionable transaction and fails to disclose the transaction, then the taxpayer is subject to tough penalties for not disclosing and higher penalties if an understatement results.

The legislation separates transactions into one of three types of transactions for purposes of disclosure and penalties: Reportable Listed Transactions, Reportable Avoidance Transactions, and a catch-all category for Other Transactions. The legislation also addresses the role of each of the players involved in abusive tax shelters: including the taxpayer who buys, the promoter who markets, and the tax advisor who provides an opinion ''endorsing'' the tax-engineered arrangement. The legislation focuses on each of these participants and contains proposals to discourage their participation in abusive tax transactions.

Reportable Listed Transactions are transactions specifically identified by the Department of the Treasury as ''tax avoidance transactions.'' These are transactions specifically classified by Treasury as bad transactions, essentially the worst of the worst. Failure by the taxpayer to disclose the transaction results in a separate strict liability, nonwaivable flat dollar penalty of $200,000 for large taxpayers and $100,000 for small taxpayers.

Additionally, if the taxpayer is required to file with the Securities and Exchange Commission, the penalty must be reported to the SEC. If the taxpayer discloses the questionable transaction, they are not subject to the flat dollar penalty or the SEC reporting. The SEC reporting requirement is a critical element to improving the disclosure of transactions. The amount of tax penalty is relatively insignificant to the tax benefits generated by abusive tax shelter transactions. Corporations, however, have a strong incentive not to trigger a penalty that must be reported to the SEC.

Failure to disclose a reportable listed transaction that results in a tax understatement will be subject to a higher, 30 percent, strict liability, nonwaivable accuracy-related penalty which must be reported to the SEC.

Reportable Avoidance Transactions are transactions that fall into one of the several objective criteria established by the Department of the Treasury which have a potential for tax avoidance or evasion. Based on current regulations and the proposals put forward by the administration, we anticipate these transactions would include but would not be limited to: significant loss transactions; transactions with brief asset holding periods; transactions marketed under conditions of confidentiality; transactions subject to indemnification agreements; and transactions with a certain amount of book-tax difference.

Failure by the taxpayer to disclose the questionable reportable avoidance transaction results in a separate strict liability, nonwaivable flat dollar penalty of $100,000 for large taxpayers and $50,000 for small taxpayers.

Reportable Avoidance Transactions are then subject to a filter to determine whether there is a significant purpose of tax avoidance. Transactions entered into with a significant purpose of tax avoidance are subject to harsher treatment in the form of higher penalties.

The legislation enhances the Government's ability to enjoin promoters. Most significantly, the legislation increases the penalty imposed on tax shelter promoters who refuse to maintain lists of their tax shelter investors. If a promoter fails to provide the IRS with a list of investors in a reportable transaction within 20 days after receipt of a written request by the IRS to provide such a list, the promoter would be subject to a penalty of $10,000 for each additional business day that the requested information is not provided.

The legislation adds a provision authorizing the Treasury Department to censure tax advisors or impose monetary sanctions against tax advisors and firms that participate in tax shelter activities and practice before the IRS.

I am pleased that this legislation is the product of working closely with my good friend, and the ranking member of the Finance Committee, Senator GRASSLEY. I appreciate Senator GRASSLEY's cosponsorship of the Tax Shelter Transparency Act and his commitment to work as a bipartisan front to shine some light on these abusive tax shelter transactions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2498

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Shelter Transparency Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 code; table of contents.

TITLE I—TAXPAYER-RELATED PROVISIONS

Sec. 101. Penalty for failing to disclose reportable transaction.
Sec. 102. Increase in accuracy-related penalties for listed transactions and other reportable transactions having a tax avoidance purpose.
Sec. 103. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 104. Tax shelter exception to confidentiality privileges relating to taxpayer communications.

TITLE II—PROMOTER AND PREPARER RELATED PROVISIONS

Subtitle A—Provisions Relating To Reportable Transactions

Sec. 201. Disclosure of reportable transactions.
Sec. 202. Modifications to penalty for failure to register tax shelters.
Sec. 203. Modification of penalty for failure to maintain lists of investors.
Sec. 204. Modification of actions to enjoin specified conduct related to tax shelters and reportable transactions.

Subtitle B—Other Provisions

Sec. 211. Understatement of taxpayer's liability by income tax return preparer.
Sec. 212. Report on effectiveness of penalty on failure to report interests in foreign financial accounts.
Sec. 213. Frivolous tax submissions.
Sec. 214. Regulation of individuals practicing before the Department of Treasury.

Sec. 215. Penalty on promoters of tax shelters.

TITLE I—TAXPAYER-RELATED PROVISIONS

SEC. 101. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

''(a) IMPOSITION OF PENALTY.—Any person who fails to include with any return or statement any information required to be included under subchapter A of chapter 61 with respect to a reportable transaction shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts for the taxable year or the preceding taxable year in excess of $10,000,000. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—The term 'high net worth individual' means a natural person whose net worth exceeds $2,000,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required under subchapter A of chapter 61 to be included with a taxpayer's return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction—

''(A) which is the same as, or similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011, or

''(B) which is expected to produce a tax result which is the same as, or similar to, the tax result in a transaction which is so specified.

''(d) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty with respect to a listed transaction under this section, or

''(B) is required to pay a penalty under section 6662(a)(2) with respect to any reportable transaction at a rate prescribed under section 6662(i)(3),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(e) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under section 6662.''

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 102. INCREASE IN ACCURACY-RELATED PENALTIES FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A TAX AVOIDANCE PURPOSE.

(a) INCREASE IN PENALTY.—Subsection (a) of section 6662 (relating to imposition of penalty) is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

''(2) UNDERSTATEMENT OF INCOME TAX ATTRIBUTABLE TO LISTED TRANSACTIONS OR OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.—If a taxpayer has a reportable transaction income tax understatement (as defined in subsection (i)) for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of the understatement. Except as provided in subsection (i)(4)(B), such understatement shall not be taken into account for purposes of paragraph (1).''

(b) REPORTABLE TRANSACTION INCOME TAX UNDERSTATEMENT.—Section 6662 (relating to imposition of accuracy-related penalty) is amended by adding at the end the following new subsection:

''(i) UNDERSTATEMENT OF INCOME TAX ATTRIBUTABLE TO LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.—

''(1) REPORTABLE TRANSACTION INCOME TAX UNDERSTATEMENT.—For purposes of subsection (a)(2), the term 'reportable transaction income tax understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the taxpayer's treatment of items to which this subsection applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such items, and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the credits allowed against the tax imposed by subtitle A which results from a difference between the taxpayer's treatment of items to which this subsection applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such items.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any item which is attributable to—

''(A) any listed transaction, or

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(3) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—In the case of any portion of a reportable transaction income tax understatement attributable to a transaction to which section 6664(c)(1) does not apply by reason of section 6664(c)(2)(A), the rate of tax under subsection (a)(2) shall be increased by 5 percent (10 percent in the case of a listed transaction).

''(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(B) COORDINATION WITH DETERMINATIONS OF WHETHER OTHER UNDERSTATEMENTS ARE SUBSTANTIAL.—Reportable transaction income tax understatements shall be taken into account under subsection (d)(1) in determining whether any understatement (which is not a reportable transaction income tax understatement) is a substantial understatement.

''(C) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction income tax understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.''

(c) REASONABLE CAUSE EXCEPTION.—Subsection (c) of section 6664 (relating to reasonable cause exception) is amended by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraphs:

''(2) SPECIAL RULES FOR UNDERSTATEMENTS ATTRIBUTABLE TO LISTED AND CERTAIN OTHER TAX AVOIDANCE TRANSACTIONS.—Paragraph (1) shall not apply to the portion of any reportable transaction income tax understatement attributable to an item referred to in section 6662(i)(2) unless—

''(A) the relevant facts affecting the tax treatment of such item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on

audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor is a material advisor (within the meaning of section 6111(b)(1)) who—

''(I) is compensated directly or indirectly by another material advisor with respect to the transaction,

''(II) has a contingent fee arrangement with respect to the transaction,

''(III) has any type of referral agreement or other similar agreement or understanding with another material advisor which relates to the transaction, or

''(IV) has any other characteristic which, as determined under regulations prescribed by the Secretary, is indicative of a potential conflict of interest or compromise of independence.

''(iii) DISQUALIFIED OPINIONS.—An opinion is described in this clause if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts, or

''(IV) fails to meet any other requirement as the Secretary may prescribe.''

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 103. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year, or

''(ii) $10,000,000.''

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(c)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions—

''(A) for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment, and

''(B) which affect a significant number of taxpayers.

Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 104. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

TITLE II—PROMOTER AND PREPARER RELATED PROVISIONS

Subtitle A—Provisions Relating To Reportable Transactions

SEC. 201. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing the advice provided by such advisor, including any potential tax benefits represented to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed on the first business day following the earliest date on which such advisor provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out the transaction (or such later date as the Secretary may prescribe).

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—The term 'material advisor' means any person—

''(A) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

''(B) who directly or indirectly derives gross income from such advice or assistance.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain (in such manner as the Secretary may by regulations prescribe) a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.''

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b)(1)(A), as redesignated by subparagraph (B), is amending by inserting ''written'' before ''request''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 202. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the fees paid to such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring after the date of the enactment of this Act.

SEC. 203. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available to the Secretary in accordance with section 6112(b)(1)(A) within 20 days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to failures occurring after the date of the enactment of this Act.

SEC. 204. MODIFICATION OF ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS."

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

Subtitle B—Other Provisions

SEC. 211. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 212. REPORT ON EFFECTIVENESS OF PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

The Secretary of the Treasury or his delegate shall report each year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) the number of civil and criminal penalties imposed on failures to meet the reporting and recordkeeping requirements of section 5314 of title 31, United States Code, with respect to interests held in foreign financial accounts, and

(2) the average amount of monetary penalties so imposed.

The Secretary shall include with such report an analysis of the effectiveness of such reporting and recordkeeping requirements in preventing the avoidance or evasion of Federal income taxes and any recommendations to improve such requirements and the enforcement of such requirements.

SEC. 213. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 7811 (relating to taxpayer assistance orders),

''(II) section 6159 (relating to agreements for payment of tax liability in installments), or

''(III) section 7122 (relating to compromises).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 214. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure.''

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''

SEC. 215. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: ''Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

Mr. GRASSLEY. Mr. President, I rise today to co-sponsor legislation, the ''Tax Shelter Transparency Act'' which will arrest the proliferation of tax shelters.

We have known for many years that abusive tax shelters, which are structured to exploit unintended consequences of our complicated Federal income tax system, erode the Federal tax base and the public's confidence in the tax system. Such transactions are patently unfair to the vast majority of taxpayers who do their best to comply with the letter and spirit of the tax law. As a result, the Finance Committee has worked exceedingly hard over the past several years to develop three legislative discussion drafts for public review and comment. Thoughtful and well-considered comments on these drafts have been greatly appreciated by the staff and members of the Finance Committee. The collaborative efforts of those involved in the discussion drafts combined with the recent request for legislative assistance from the Treasury Department and IRS produced today's revised approach for dealing with abusive tax avoidance transactions.

Above all, the Tax Shelter Transparency Act encourages taxpayer disclosure of potentially abusive tax avoidance transactions. It is surprising and unfortunate that taxpayers, though required to disclose tax shelter transactions under present law, have refused to comply. The Treasury Department and IRS report that the 2001 tax filing season produced a mere 272 tax shelter return disclosures from only 99 corporate taxpayers, a fraction of transactions requiring such disclosure. The Tax Shelter Transparency Act will curb non-compliance by providing clearer and more objective rules for the reporting of potential tax shelters and by providing strong penalties for anyone who refuses to comply with the revised disclosure requirements.

The legislation has been carefully structured to reward those who are forthcoming with disclosure. I wholeheartedly agree with the remarks offered by the recent Treasury Assistant Secretary for Tax Policy, that ''if a taxpayer is comfortable entering into a transaction, a promoter is comfortable selling it, and an advisor is comfortable blessing it, they all should be comfortable disclosing it to the IRS.'' Transparency is essential to an evaluation by the IRS and ultimately by the Congress of the United States as to whether the tax benefits generated by complex business transactions are appropriate interpretations of existing tax law. To the extent such interpretations were unintended, the bill allows Congress to amend or clarify existing tax law. To the extent such interpretations are appropriate, all taxpayers, from the largest U.S. multinational conglomerate to the smallest local feedstore owner in Iowa, will benefit when transactions are publicly sanctioned in the form of an ''angel list'' of good transactions. This legislation accomplishes both of these objectives.

By Mr. KENNEDY (for himself and Mrs. CLINTON):

S. 2499. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I am pleased today to join my colleagues Senator CLINTON and Congresswoman NITA LOWEY in introducing legislation to improve the labeling of allergens in food.

American families deserve to feel confident about the safety of the food on their tables. The Food Allergen Consumer Protection Act will allow the seven million Americans with food allergies to identify more easily a product's ingredients, avoid foods that may harm them, and stay healthy. We anticipate that this legislation will reduce the number, currently estimated to be 150 yearly, of Americans who die due to the ingestion of allergenic foods.

The Food Allergen Consumer Production Act will require that food ingredient statements on food packages identify in common language when an ingredient, including a flavoring, coloring, or other additive, is itself, or is derived from, one of the eight main food allergens, or from grains containing gluten. This legislation will also make the ingredient label on foods easier to read, and require it to include a working telephone number, including one for telecommunication devices for deaf persons.

The Food Allergen Consumer Protection Act will require food manufacturers to minimize cross-contamination with food allergens between foods produced in the same facility or on the same production line. It will require the use of ''may contain'' or other advisory language in food labeling when steps to reduce such cross-contamination will not eliminate it. This legislation also preserves the Food and Drug Administration's current authority to regulate the safety of certain products that are bioengineered to contain proteins that cause allergic reactions.

The Food Allergen Consumer Protection Act will also require the Centers for Disease Control and Prevention to track deaths related to food allergies, and it will direct the National Institutes of Health to develop a plan for research activities concerning food allergies.

I urge my colleagues in the Senate to support this legislation that will do so much to improve the lives of those with food allergies. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2499

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 ''Food Allergen Consumer Protection Act''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Approximately 7,000,000 Americans suffer from food allergies. Every year roughly 30,000 people receive emergency room treatment due to the ingestion of allergenic foods, and an estimated 150 Americans die from anaphylactic shock caused by a food allergy.

(2) Eight major foods—milk, egg, fish, Crustacea, tree nuts, wheat, peanuts, and soybeans—cause 90 percent of allergic reactions. At present, there is no cure for food allergies. A food allergic consumer depends on a product's label to obtain accurate and reliable ingredient information so as to avoid food allergens.

(3) Current Food and Drug Administration regulations exempt spices, flavorings, and certain colorings and additives from ingredient labeling requirements that would allow consumers to avoid those to which they are allergic. Such unlabeled food allergens may pose a serious health threat to those susceptible to food allergies.

(4) A recent Food and Drug Administration study found that 25 percent of bakery products, ice creams, and candies that were inspected failed to list peanuts and eggs, which can cause potentially fatal allergic reactions. The mislabeling of foods puts those with a food allergy at constant risk.

(5) In that study, the Food and Drug Administration found that only slightly more than half of inspected manufacturers checked their products to ensure that all ingredients were accurately reflected on the labels. Furthermore, the number of recalls because of unlabeled allergens rose to 121 in 2000 from about 35 a decade earlier. In part, mislabeling occurs because potentially fatal allergens are introduced into the manufacturing process when production lines and cooking utensils are shared or used to produce multiple products.

(6) Individuals who have food allergies may outgrow their allergy if they strictly avoid consuming the allergen. However, some scientists believe that because low levels of allergens are unintentionally present in foods, those with an allergy are unable to keep from being repeatedly exposed to the very foods they are allergic to. Good manufacturing practices can minimize the unintentional presence of food allergens. In addition, when good manufacturing practices cannot eliminate the potential for cross-contamination, an advisory label on the product can provide additional consumer protection.

(7) The Food and Drug Administration is the Nation's principal consumer protection agency, charged with protecting and promoting public health through premarket and postmarket regulation of food. The agency must have both the necessary authority to ensure that foods are properly labeled and produced using good manufacturing practices and the ability to penalize manufacturers who violate our food safety laws.

(8) Americans deserve to have confidence in the safety and labeling of the food on their tables.

SEC. 3. FOOD LABELING; REQUIREMENT OF INFORMATION REGARDING ALLERGENIC SUBSTANCES.

(a) IN GENERAL.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(t)(1) If it is not a raw agricultural commodity and it is, or it intentionally bears or contains, a known food allergen, unless its label bears, in bold face type, the common or usual name of the known food allergen and the common or usual name of the food source described in subparagraph (3)(A) from which the known food allergen is derived, except that the name of the food source is not required when the common or usual name of the known food allergen plainly identifies the food source.

''(2) The information required under this paragraph may appear in labeling other than the label only if the Secretary finds that such other labeling is sufficient to protect the public health. A finding by the Secretary under this subparagraph is effective upon publication in the Federal Register as a notice (including any change in an earlier finding under this subparagraph).

''(3) For purposes of this Act, the term 'known food allergen' means any of the following:

''(A) Milk, egg, fish, Crustacea, tree nuts, wheat, peanuts, and soybeans.

''(B) A proteinaceous substance derived from a food specified in clause (A), unless the Secretary determines that the substance does not cause an allergic response that poses a risk to human health.

''(C) Other grains containing gluten (rye, barley, oats, and triticale).

''(D) In addition, any food that the Secretary by regulation determines causes an allergic or other adverse response that poses a risk to human health.

''(4) Notwithstanding paragraph (g), (i), or (k), or any other law, the labeling requirement under this paragraph applies to spices, flavorings, colorings, or incidental additives that are, or that bear or contain, a known food allergen.

''(u) If it is a raw agricultural commodity that is, or bears or contains, a known food allergen, unless it has a label or other labeling that bears in bold face type the common or usual name of the known food allergen and the Secretary has found that the label or other labeling is sufficient to protect the public health. A finding by the Secretary under this paragraph is effective upon publication in the Federal Register as a notice (including any change in an earlier finding under this paragraph).

''(w) If the labeling required under paragraphs (g), (i), (k), (t), (u), or (v)—

''(1) does not use a single, easy-to-read type style that is black on a white background, using upper and lower case letters and with no letters touching;

''(2) does not use at least 8 point type with at least one point leading (i.e., space between two lines of text), provided the total surface area of the food package available to bear labeling exceeds 12 square inches; or

''(3) does not comply with regulations issued by the Secretary to make it easy for consumers to read and use such labeling by requiring a format that is comparable to the format required for the disclosure of nutrition information in the food label under section 101.9(d)(1) of title 21, Code of Federal Regulations.''.

(b) CIVIL PENALTIES.—Section 303(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(g)(2)) is amended—

(1) in subparagraph (A), by striking ''section 402(a)(2)(B) shall be subject'' and inserting the following: ''section 402(a)(2)(B) or regulations under this chapter to minimize the unintended presence of allergens in food, or that is misbranded within the meaning of section 403(t), 403(u), 403(v), or 403(w), shall be subject''; and

(2) in subparagraph (B), by inserting ''or misbranded'' after ''adulterated'' each place such term appears.

(c) CONFORMING AMENDMENT.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

''(ll) The term 'known food allergen' has the meaning given such term in section 403(t)(3).''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 4. UNINTENTIONAL PRESENCE OF KNOWN FOOD ALLERGENS.

(a) FOOD LABELING OF SUCH FOOD ALLERGENS.—Section 403 of the Federal Food, Drug, and Cosmetic Act, as amended by section 3(a) of this Act, is amended by inserting after paragraph (u) the following:

''(v) If the presence of a known food allergen in the food is unintentional and its labeling bears a statement that the food may bear or contain the known food allergen, or any similar statement, unless the statement is made in compliance with regulations issued by the Secretary to provide for advisory labeling of the known food allergen.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of the four-year period beginning on the date of the enactment of this Act, except with respect to the authority of the Secretary of Health and Human Services to engage in rulemaking in accordance with section 5.

SEC. 5. REGULATIONS.

(a) IN GENERAL.—

(1) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall issue a proposed rule under sections 402, 403, and 701(a) of the Federal Food, Drug, and Cosmetic Act to implement the amendments made by this Act. Not later than two years after such date of enactment, the Secretary shall promulgate a final rule under such sections.

(2) EFFECTIVE DATE.—The final rule promulgated under paragraph (1) takes effect upon the expiration of the four-year period beginning on the date of the enactment of this Act. If a final rule under such paragraph has not been promulgated as of the expiration of such period, then upon such expiration the proposed rule under such paragraph

takes effect as if the proposed rule were a final rule.

(b) UNINTENTIONAL PRESENCE OF KNOWN FOOD ALLERGENS.—

(1) GOOD MANUFACTURING PRACTICES; RECORDS.—Regulations under subsection (a) shall require the use of good manufacturing practices to minimize, to the extent practicable, the unintentional presence of allergens in food. Such regulations shall include appropriate record keeping and record inspection requirements.

(2) ADVISORY LABELING.—In the regulations under subsection (a), the Secretary shall authorize the use of advisory labeling for a known food allergen when the Secretary has determined that good manufacturing practices required under the regulations will not eliminate the unintentional presence of the known food allergen and its presence in the food poses a risk to human health, and the regulations shall otherwise prohibit the use of such labeling.

(c) INGREDIENT LABELING GENERALLY.—In regulations under subsection (a), the Secretary shall prescribe a format for labeling, as provided for under section 403(w)(3) of the Federal, Food, Drug, and Cosmetic Act.

(d) REVIEW BY OFFICE OF MANAGEMENT AND BUDGET.—If the Office of Management and Budget (in this section referred to as ''OMB'') is to review proposed or final rules under this Act, OMB shall complete its review in 10 working days, after which the rule shall be published immediately in the Federal Register. If OMB fails to complete its review of either the proposed rule or the final rule in 10 working days, the Secretary shall provide the rule to the Office of the Federal Register, which shall publish the rule, and it shall have full effect (subject to applicable effective dates specified in this Act) without review by OMB. If the Secretary does not complete the proposed or final rule so as to provide OMB with 10 working days to review the rule and have it published in the Federal Register within the time frames for publication of the rule specified in this section, the rule shall be published without review by OMB.

SEC. 6. FOOD LABELING; INCLUSION OF TELEPHONE NUMBER.

(a) IN GENERAL.—Section 403(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(e)) is amended—

(1) by striking ''and (2)'' and inserting the following: ''(2) in the case of a manufacturer, packer, or distributor whose annual gross sales made or business done in sales to consumers equals or exceeds $500,000, a toll-free telephone number (staffed during reasonable business hours) for the manufacturer, packer, or distributor (including one to accommodate telecommunications devices for deaf persons, commonly known as TDDs); or in the case of a manufacturer, packer, or distributor whose annual gross sales made or business done in sales are less than $500,000, the mailing address or the address of the Internet site for the manufacturer, packer, or distributor; and (3)''; and

(2) by striking ''clause (2)'' and inserting ''clause (3)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 7. DATA ON FOOD-RELATED ALLERGIC RESPONSES.

(a) IN GENERAL.—Consistent with the findings of the study conducted under subsection (b), the Secretary of Health and Human Services (in this section referred to as the ''Secretary''), acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Commissioner of Foods and Drugs, shall improve the collection of, and (beginning 18 months after the date of the enactment of this Act) annually publish, national data on—

(1) the prevalence of food allergies, and

(2) the incidence of deaths, injuries, including anaphylactic shock, hospitalizations, and physician visits, and the utilization of drugs, associated with allergic responses to foods.

(b) STUDY.—Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with consumers, providers, State governments, and other relevant parties, shall complete a study for the purposes of—

(1) determining whether existing systems for the reporting, collection and analysis of national data accurately capture information on the subjects specified in subsection (a); and

(2) identifying new or alternative systems, or enhancements to existing systems, for the reporting collection and analysis of national data necessary to fulfill the purpose of subsection (a).

(c) PUBLIC AND PROVIDER EDUCATION.—The Secretary shall, directly or through contracts with public or private entities, educate physicians and other health providers to improve the reporting, collection, and analysis of data on the subjects specified in subsection (a).

(d) CHILD FATALITY REVIEW TEAMS.—Insofar as is practicable, activities developed or expanded under this section shall include utilization of child fatality review teams in identifying and assessing child deaths associated with allergic responses to foods.

(e) REPORTS TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the progress made with respect to subsections (a) through (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for fiscal year 2003, and such sums as may be necessary for each subsequent fiscal year.

(g) EFFECTIVE DATE.—This section takes effect on the date of the enactment of this Act.

By Mr. ALLARD (for himself, Mr. SESSIONS, and Mrs. HUTCHISON):

S. 2501. A bill to establish requirements arising from the delay or restriction on the shipment of special nuclear materials to the Savannah River Site, Aiken, South Carolina; to the Committee on Armed Services.

Mr. ALLARD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2501

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

SECTION 1. REQUIREMENTS RELATING TO DELAY, RESTRICTION, OR PROHIBITION ON SHIPMENT OF SPECIAL NUCLEAR MATERIALS TO SAVANNAH RIVER SITE, AIKEN, SOUTH CAROLINA.

(a) REQUIREMENTS.—Subject to subsection (c), if as of the date of the enactment of this Act, or at any time after that date, the State of South Carolina acts to delay or restrict, or seeks or enforces a judgment to prohibit, the shipment of special nuclear materials (SNM) to the Savannah River Site, Aiken, South Carolina, for processing by the proposed mixed oxide (MOX) fuel fabrication facility at the Savannah River Site, the Secretary of Energy shall—

(1) reopen the Record of Decision (ROD) on the mixed oxide fuel fabrication facility for purposes of identifying and evaluating alternative locations for the mixed oxide fuel fabrication facility; and

(2) conduct a study of the costs and implications for the national security of the United States of—

(A) converting the Savannah River site to an environmental management (EM) closure site; and

(B) transferring all current and proposed national security activities at the Savannah River Site from the Savannah River Site to other facilities of the National Nuclear Security Administration or the Department of Energy, as appropriate.

(b) REPORT ON STUDY.—If the Secretary conducts a study under subsection (a)(2), the Secretary shall submit to the congressional defense committees a report on the study not later than six months after the commencement of the study.

(c) CONTINGENT SUSPENSION OF APPLICABILITY OF REQUIREMENTS.—If at any time before the requirements in subsection (a) otherwise go into effect, the Secretary and the State of South Carolina enter into an agreement regarding the shipment of special nuclear materials to the Savannah River Site for processing by the proposed mixed oxide fuel fabrication facility at the Savannah River Site, the requirements in subsection (a) shall not go into effect as long, as determined by the Secretary, as the Secretary and the State of South Carolina comply with the agreement.

(d) SPECIAL NUCLEAR MATERIALS.—In this section, the term ''special nuclear materials'' includes weapons grade plutonium.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 109—COMMEMORATING THE INDEPENDENCE OF EAST TIMOR AND EXPRESSING THE SENSE OF CONGRESS THAT THE PRESIDENT SHOULD ESTABLISH DIPLOMATIC RELATIONS WITH EAST TIMOR, AND FOR OTHER PURPOSES

Mr. CHAFEE (for himself and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 109

Whereas on May 20, 2002, East Timor will become the first new country of the millennium;

Whereas the perseverance and strength of the East Timorese people in the face of daunting challenges has inspired the people of the United States and around the world;

Whereas in 1974 Portugal acknowledged the right of its colonies, including East Timor, to self-determination, including independence;

Whereas East Timor has been under United Nations administration since October, 1999, during which time international peace-keeping forces, supplemented by forces of the United States Group for East Timor (USGET), have worked to stabilize East Timor and provide for its national security;

Whereas the people of East Timor exercised their long-sought right of self-determination on August 30, 1999, when 98.6 percent of the eligible population voted, and 78.5 percent chose independence, in a United Nations-administered popular consultation, despite systematic terror and intimidation;

Whereas a constitution for East Timor was adopted in March, 2002;

Whereas East Timor is emerging from more than 400 years of colonization and occupation;

Whereas the East Timorese people again demonstrated their strong commitment to democracy when 91.3 percent of eligible voters peacefully participated in East Timor's first democratic, multiparty election for a Constituent Assembly on August 30, 2001, and when 86.3 percent of those eligible participated in the first presidential election on April 14, 2002, electing Xanana Gusamo as their first President;

Whereas, as the people of East Timor move proudly toward independence, many still struggle to recover from the scars of the military occupation and 1999 anti-independence violence that resulted in displacement which, according to United Nations and other independent reports, exceed 500,000 in number, and widespread death, rape and other mistreatment of women, family separation, large refugee populations, and the destruction of 70 percent of the country's infrastructure;

Whereas efforts are ongoing by East Timorese officials and others to seek justice for the crimes against humanity and war crimes that have been perpetrated in recent years, efforts that include the work of the Serious Crimes Investigation Unit of the United Nations and the East Timorese Commission for Reception, Truth, and Reconciliation to document and assess responsibility;

Whereas Indonesian National Human Rights Commission and United Nations Security Council recommendations to investigate and prosecute senior Indonesian military and civilian officials for their roles in promoting the 1999 anti-independence violence in East Timor have not yet been fully implemented;

Whereas, although the people of East Timor are working toward a plan for vigorous economic growth and development, the Government of East Timor will face a substantial shortfall in its recurrent and development budgets over the first 3 years of independence, and is seeking to fill the gap entirely with grants from donor countries; and

Whereas a large percentage of the population of East Timor lives below the poverty line, with inadequate access to health care and education, the unemployment rate is estimated at 80 percent, and the life expectancy is only 57 years: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) Congress—

(1) congratulates and honors the courageous people of East Timor and their leaders;

(2) welcomes East Timor into the community of nations as a sovereign state and looks forward to working with East Timor as an equal partner;

(3) supports United Nations and other multilateral efforts to support reconstruction and development in East Timor, and United Nations and other multilateral peacekeeping forces to safeguard East Timor's security, including continuing the periodic visits by United States military forces;

(4) remains committed to working toward a debt-free start to East Timor and just, sustainable, and secure development programs as well as adequate resources for the judicial system for East Timor for the foreseeable future beyond independence;

(5) expresses continued concern over deplorable humanitarian conditions and an environment of intimidation among the East Timorese refugees living in West Timor;

(6) strongly supports the prompt, safe, and voluntary repatriation and reintegration of East Timorese refugees, in particular those East Timorese still held in militia-controlled refugee camps in West Timor, especially children separated from their parents through coercion or force;

(7) expresses a commitment to maintaining appropriate restrictions and prohibitions in law on military assistance, training, relations, and technical support to the Indonesian Armed Forces; and

(8) acknowledges that a United Nations International Commission of Inquiry found in January 2000 that justice is ''fundamental for the future social and political stability of East Timor'', and remains deeply concerned about the lack of justice in the region.

(b) It is the sense of Congress that the President should—

(1) immediately extend to East Timor the diplomatic relations afforded to other sovereign nations, including the establishment of an embassy in East Timor;

(2) maintain a robust level of United States assistance for East Timor commensurate with the challenges this new nation faces after independence;

(3) work to fund in a generous and responsible way East Timor's financing gap in its recurrent and development budgets, and coordinate with other donors to ensure the budget gap is addressed;

(4) focus bilateral assistance on the areas of employment creation, job training, rural reconstruction, micro-enterprise, environmental protection, health care, education, refugee resettlement, reconciliation and conflict resolution, and strengthening the role of women in society;

(5) strongly urge the Government of Indonesia to step up efforts to disarm and disband all militia, hold them accountable to the rule of law, ensure stability along the border, and promptly reunite East Timorese children separated from their parents through coercion or force; and

(6) review thoroughly information from the East Timorese Commission for Reception, Truth, and Reconciliation, and use all diplomatic resources at the disposal of the President to ensure that—

(A) those officials responsible for crimes against humanity and war crimes against the East Timorese people are held accountable; and

(B) the Government of Indonesia fully cooperates with the East Timorese judicial system.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3398. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3386 proposed by Mr. DASCHLE to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table.

SA 3399. Mr. LOTT proposed an amendment to the bill H.R. 3009, supra.

SA 3400. Mr. BAYH (for himself, Mr. DURBIN, Mr. DAYTON, Ms. MIKULSKI, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 3386 proposed by Mr. DASCHLE to the bill (H.R. 3009) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3398. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3386 proposed by Mr. DASCHLE to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 23, strike all through ''United States,'' on line 25, and insert the following: ''foreign investors in the United States are not accorded greater rights than United States investors in the United States,''.

SA 3399. Mr. LOTT proposed an amendment to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; as follows:

Strike all after the first word in the bill and add the following:

DIVISION A—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE I—TRADE PROMOTION AUTHORITY

SEC. 1101. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This division may be cited as the ''Bipartisan Trade Promotion Authority Act of 2002''.

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

(3) Support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Nevertheless, in several cases, dispute settlement panels and the WTO Appellate Body have added to obligations and diminished rights of the United States under WTO Agreements. In particular, dispute settlement panels and the Appellate Body have—

(A) given insufficient deference to the expertise and fact-finding of the Department of Commerce and the United States International Trade Commission;

(B) imposed an obligation concerning the causal relationship between increased imports into the United States and serious injury to domestic industry necessary to support a safeguard measure that is different from the obligation set forth in the applicable WTO Agreements;

(C) imposed an obligation concerning the exclusion from safeguards measures of products imported from countries party to a free trade agreement that is different from the obligation set forth in the applicable WTO Agreements;

(D) imposed obligations on the Department of Commerce with respect to the use of facts

available in antidumping investigations that are different from the obligations set forth in the applicable WTO Agreements; and

(E) accorded insufficient deference to the Department of Commerce's methodology for adjusting countervailing duties following the privatization of a subsidized foreign producer.

SEC. 1102. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 1103 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the International Labor Organization (as defined in section 1113(2)) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade; and

(8) to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small business.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—Recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, the principal negotiating objectives of the United States regarding foreign investment are to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment, while ensuring that United States investors in the United States are not accorded lesser rights than foreign investors in the United States, and to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process;

(F) providing meaningful procedures for resolving investment disputes;

(G) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims and to deter the filing of frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(iii) procedures to enhance opportunities for public input into the formulation of government positions; and

(iv) establishment of a single appellate body to review decisions in investor-to-government disputes and thereby provide coherence to the interpretations of investment provisions in trade agreements; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public;

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and appropriate domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments; and

(B) to ensure that such standards do not place United States persons at a competitive disadvantage in international trade.

(7) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for

government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—

(A) IN GENERAL.—The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) seeking to eliminate all export subsidies on agricultural commodities while maintaining bona fide food aid and preserving United States agricultural market development and export credit programs that allow the United States to compete with other foreign export promotion efforts;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating Government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that the use of import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry;

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs; and

(xvi) strive to complete a general multilateral round in the World Trade Organization by January 1, 2005, and seek the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on United States import-sensitive commodities (including those subject to tariff-rate quotas).

(B) CONSULTATION.—

(i) BEFORE COMMENCING NEGOTIATIONS.—Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) DURING NEGOTIATIONS.—During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) SCOPE OF OBJECTIVE.—The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 1103 (a) or (b), including any trade agreement entered into under section 1103 (a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(11) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 1113(2));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek improved adherence by panels convened under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes and by the WTO Appellate Body to the standard of review applicable under the WTO Agreement involved in the dispute, including greater deference, where appropriate, to the fact finding and technical

expertise of national investigating authorities;

(D) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(E) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(F) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(G) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

(14) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 1113(2)), and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999 and the relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, modeled after Executive Order 13141, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) have the Secretary of Labor consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) in connection with any trade negotiations entered into under this division, the President shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating, on a time frame determined in accordance with section 1107(b)(2)(E);

(9)(A) preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994;

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this division applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement; and

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

The report required under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this division, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 1107 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this division, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 1107; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 1103. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this division will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any agricultural product which was the subject of tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty, pursuant to such Agreements, was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a

trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 1105 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—

(A) DETERMINATION BY PRESIDENT.—Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, priorities, and objectives of this division will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) AGREEMENT TO REDUCE OR ELIMINATE CERTAIN DISTORTION.—The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) TIME PERIOD.—The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 1102 (a) and (b) and the President satisfies the conditions set forth in section 1104.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—

(A) APPLICATION OF EXPEDITED PROCEDURES.—The provisions of section 151 of the Trade Act of 1974 (in this division referred to as ''trade authorities procedures'') apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this division be referred to as an ''implementing bill''.

(B) PROVISIONS DESCRIBED.—The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 1105(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this division, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) OTHER REPORTS TO CONGRESS.—

(A) REPORT BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this division; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) REPORT BY ITC.—The President shall promptly inform the International Trade Commission of the President's decision to submit a report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—

(A) DEFINITION.—For purposes of paragraph (1), the term ''extension disapproval resolution'' means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: ''That the ____ disapproves the request of the President for the extension, under section 1103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 1103(b) of that Act after June 30, 2005.'', with the blank space being filled with the name of the resolving House of the Congress.

(B) INTRODUCTION.—Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) APPLICATION OF SECTION 152 OF THE TRADE ACT OF 1974.—The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) LIMITATIONS.—It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and

expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 1102(b).

SEC. 1104. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 1103(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 1107; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 1107(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) NEGOTIATIONS REGARDING AGRICULTURE AND FISHING INDUSTRY.—

(1) IN GENERAL.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 1102(b)(10)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—

(A) IN GENERAL.—Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the date of enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on the date of enactment of this Act, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned;

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and

(III) whether the countries participating in the negotiations maintain export subsidies or other programs, policies, or practices that distort world trade in such products and the impact of such programs, policies, and practices on United States producers of the products;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) IDENTIFICATION OF ADDITIONAL AGRICULTURAL PRODUCTS.—If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(3) NEGOTIATIONS REGARDING THE FISHING INDUSTRY.—Before initiating, or continuing, negotiations which directly relate to fish or shellfish trade with any country, the President shall consult with the Committee on Ways and Means and the Committee on Resources of the House of Representatives, and the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate, and shall keep the Committees apprised of negotiations on an ongoing and timely basis.

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 1103(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 1107.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this division; and

(C) the implementation of the agreement under section 1105, including the general effect of the agreement on existing laws.

(3) REPORT REGARDING UNITED STATES TRADE REMEDY LAWS.—

(A) CHANGES IN CERTAIN TRADE LAWS.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in writing of any amendments to title VII of the Tariff Act of 1930 or chapter 1 of title II of the Trade Act of 1974 that the President proposes to include in a bill implementing such trade agreement.

(B) EXPLANATION.—On the date that the President transmits the notification, the President also shall transmit to the Committees a report explaining—

(i) the President's reasons for believing that amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974 are necessary to implement the trade agreement; and

(ii) the President's reasons for believing that such amendments are consistent with the purposes, policies, and objectives described in section 1102(c)(9).

(C) REPORT TO HOUSE.—Not later than 60 calendar days after the date on which the President transmits the notification described in subparagraph (A), the Chairman and ranking member of the Ways and Means Committee of the House of Representatives, based on consultations with the members of that Committee, shall issue to the House of Representatives a report stating whether the proposed amendments described in the President's notification are consistent with the purposes, policies, and objectives described in section 1102(c)(9). In the event that the Chairman and ranking member disagree with respect to one or more conclusions, the report shall contain the separate views of the Chairman and ranking member.

(D) REPORT TO SENATE.—Not later than 60 calendar days after the date on which the President transmits the notification described in subparagraph (A), the Chairman and ranking member of the Finance Committee of the Senate, based on consultations with the members of that Committee, shall issue to the Senate a report stating whether

the proposed amendments described in the President's report are consistent with the purposes, policies, and objectives described in section 1102(c)(9). In the event that the Chairman and ranking member disagree with respect to one or more conclusions, the report shall contain the separate views of the Chairman and ranking member.

(e) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 1103 (a) or (b) of this division shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 1103(a)(1) or 1105(a)(1)(A) of the President's intention to enter into the agreement.

(f) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 1103(b), shall provide the International Trade Commission (referred to in this subsection as ''the Commission'') with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 1105. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 1103(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into an agreement—

(i) notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register; and

(ii) transmits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the notification and report described in section 1104(d)(3) (A) and (B);

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 1103(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this division; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 1103(b)(3);

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 1102(c) regarding the promotion of certain priorities; and

(VI) in the event that the reports described in section 1104(b)(3) (C) and (D) contain any findings that the proposed amendments are inconsistent with the purposes, policies, and objectives described in section 1102(c)(9), an explanation as to why the President believes such findings to be incorrect.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 1103(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(4) DISCLOSURE OF COMMITMENTS.—Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that—

(A) relates to a trade agreement with respect to which Congress enacts implementing legislation under trade authorities procedures, and

(B) is not disclosed to Congress before legislation implementing that agreement is introduced in either House of Congress,

shall not be considered to be part of the agreement approved by Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 1103(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) For purposes of this paragraph, the term ''procedural disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to such trade agreement or agreements.'', with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has ''failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002'' on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 1104 or 1105 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 1107(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 1107(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this division.

(C) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(i) Procedural disapproval resolutions—

(I) in the House of Representatives—

(aa) may be introduced by any Member of the House;

(bb) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(cc) may not be amended by either Committee; and

(II) in the Senate—

(aa) may be introduced by any Member of the Senate.

(bb) shall be referred to the Committee on Finance; and

(cc) may not be amended.

(ii) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Congress during that Congress.

(iii) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(iv) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(2) FOR FAILURE TO MEET OTHER REQUIREMENTS.—Prior to December 31, 2002, the Secretary of Commerce shall transmit to Congress a report setting forth the strategy of the United States for correcting instances in which dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 1101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO, unless the Secretary of Commerce has issued such report in a timely manner.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section and section 1103(c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 1106. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding the prenegotiation notification and consultation requirement described in section 1104(a), if an agreement to which section 1103(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 1104(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 1105(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 1104(a); and

(2) the President shall, as soon as feasible after the date of enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 1104(a)(2) and the Congressional Oversight Group.

SEC. 1107. CONGRESSIONAL OVERSIGHT GROUP.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this division would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking Member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this division would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in negotiations for any trade agreement to which this division applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group established under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 1102(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites;

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement; and

(E) the time frame for submitting the report required under section 1102(c)(8).

(c) REQUEST FOR MEETING.—Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

SEC. 1108. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 1105(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 1109. COMMITTEE STAFF.

The grant of trade promotion authority under this division is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 1107 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

SEC. 1110. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking ''section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act'' and inserting ''section 282 of the Uruguay Round Agreements Act, or section 1105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002''.

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking ''or section 282 of the Uruguay Round Agreements Act'' and inserting '', section 282 of the Uruguay Round Agreements Act, or section 1105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002''.

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 123 of this Act or section 1103 (a) or (b) of the Bipartisan Trade Promotion Authority Act of 2002,''; and

(ii) in paragraph (2), by striking ''section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 1103(b) of the Bipartisan Trade Promotion Authority Act of 2002'';

(B) in subsection (b), by striking ''section 1102(a)(3)(A)'' and inserting ''section 1103(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2002''; and

(C) in subsection (c), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 1103 of the Bipartisan Trade Promotion Authority Act of 2002,''.

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' each place it appears and inserting ''section 1103 of the Bipartisan Trade Promotion Authority Act of 2002,''.

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 1103 of the Bipartisan Trade Promotion Authority Act of 2002''.

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 1103 of the Bipartisan Trade Promotion Authority Act of 2002'';

(B) in subsection (e)(1)—

(i) by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' each place it appears and inserting ''section 1103 of the Bipartisan Trade Promotion Authority Act of 2002''; and

(ii) by striking ''not later than the date on which the President notifies the Congress under section 1103(a)(1)(A) of such Act of 1988 of his intention to enter into that agreement'' and inserting ''not later than the date that is 30 days after the date on which the President notifies the Congress under section 1105(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2002 of the President's intention to enter into that agreement''; and

(C) in subsection (e)(2), by striking ''section 1101 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 1102 of the Bipartisan Trade Promotion Authority Act of 2002''.

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking ''or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''or under section 1103 of the Bipartisan Trade Promotion Authority Act of 2002''.

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 1103 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 1103 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 1111. REPORT ON IMPACT OF TRADE PROMOTION AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the International Trade Commission shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the economic impact on the United States of the trade agreements described in subsection (b).

(b) AGREEMENTS.—The trade agreements described in this subsection are:

(1) The United States-Israel Free Trade Agreement.

(2) The United States-Canada Free Trade Agreement.

(3) The North American Free Trade Agreement.

(4) The Uruguay Round Agreements.

(5) The Tokyo Round of Multilateral Trade Negotiations.

SEC. 1112. IDENTIFICATION OF SMALL BUSINESS ADVOCATE AT WTO.

(a) IN GENERAL.—The United States Trade Representative shall pursue the identification of a small business advocate at the World Trade Organization Secretariat to examine the impact of WTO agreements on the interests of small- and medium-sized enterprises, address the concerns of small- and medium-sized enterprises, and recommend ways to address those interests in trade negotiations involving the World Trade Organization.

(b) ASSISTANT TRADE REPRESENTATIVE.—The Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small business are considered in all trade negotiations in accordance with the objective described in section 1102(a)(8). It is the sense of Congress that the small business functions should be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small business.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the United States Trade Representative shall prepare and submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the steps taken by the United States Trade Representative to pursue the identification of a small business advocate at the World Trade Organization.

SEC. 1113. DEFINITIONS.

In this division:

(1) AGREEMENT ON AGRICULTURE.—The term ''Agreement on Agriculture'' means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) CORE LABOR STANDARDS.—The term ''core labor standards'' means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(3) GATT 1994.—The term ''GATT 1994'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(4) ILO.—The term ''ILO'' means the International Labor Organization.

(5) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(6) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(7) WORLD TRADE ORGANIZATION; WTO.—The terms ''World Trade Organization'' and ''WTO'' mean the organization established pursuant to the WTO Agreement.

(8) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

DIVISION B—ANDEAN TRADE PREFERENCE

TITLE XXI—ANDEAN TRADE PREFERENCE

SEC. 2101. SHORT TITLE.

This division may be cited as the ''Andean Trade Preference Expansion Act''.

SEC. 2102. FINDINGS.

Congress makes the following findings:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counternarcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

SEC. 2103. TEMPORARY PROVISIONS.

(a) IN GENERAL.—Section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) is amended to read as follows:

''(b) IMPORT-SENSITIVE ARTICLES.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

''(A) textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

''(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

''(C) tuna, prepared or preserved in any manner, in airtight containers;

''(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

''(E) watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

''(F) articles to which reduced rates of duty apply under subsection (c);

''(G) sugars, syrups, and sugar containing products subject to tariff-rate quotas; or

''(H) rum and tafia classified in subheading 2208.40 of the HTS.

''(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

''(A) ARTICLES COVERED.—During the transition period, the preferential treatment described in subparagraph (B) shall apply to the following articles:

''(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES AND ATPEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:

''(I) Fabrics or fabric components formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States), provided that apparel articles sewn or otherwise assembled from materials described in this subclause are assembled with thread formed in the United States.

''(II) Fabric components knit-to-shape in the United States from yarns wholly formed in the United States and fabric components knit-to-shape in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States.

''(III) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPEA beneficiary countries, from yarns wholly formed in 1 or more ATPEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPEA beneficiary countries) or components are in chief weight of llama, alpaca, or vicuna.

''(IV) Fabrics or yarns that are not formed in the United States or in 1 or more ATPEA beneficiary countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

''(ii) KNIT-TO-SHAPE APPAREL ARTICLES.—Apparel articles knit-to-shape (other than socks provided for in heading 6115 of the HTS) in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States.

''(iii) REGIONAL FABRIC.—

''(I) GENERAL RULE.—Knit apparel articles wholly assembled in 1 or more ATPEA beneficiary countries exclusively from fabric formed, or fabric components formed, or components knit-to-shape, or any combination thereof, in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States, in an amount not exceeding the amount set forth in subclause (II).

''(II) LIMITATION.—The amount referred to in subclause (I) is 70,000,000 square meter equivalents during the 1-year period beginning on March 1, 2002, increased by 16 percent, compounded annually, in each succeeding 1-year period through February 28, 2006.

''(iv) CERTAIN OTHER APPAREL ARTICLES.—

''(I) GENERAL RULE.—Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in the United States, or one or more of the ATPEA beneficiary countries, or both.

''(II) LIMITATION.—During the 1-year period beginning on March 1, 2003, and during each of the 2 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under subparagraph (B) only if the aggregate cost of fabric components formed in the United States that are used in the production of all such articles of that producer or entity that are entered during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

''(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under subparagraph (B) during any succeeding 1-year period until the aggregate cost of fabric components formed in the United States used in the production of such articles of that producer or entity that are entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

''(v) APPAREL ARTICLES ASSEMBLED FROM FABRICS OR YARN NOT WIDELY AVAILABLE IN COMMERCIAL QUANTITIES.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarn as eligible for preferential treatment under clause (i)(IV) if—

''(I) the President determines that such fabrics or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner;

''(II) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

''(III) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the action proposed to be proclaimed and the reasons for such actions, and the advice obtained under subclause (II);

''(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and

''(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).

''(vi) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

''(vii) SPECIAL RULES.—

''(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and are used in the production of brassieres.

''(bb) In the case of an article described in clause (i)(I) of this subparagraph, sewing thread shall not be treated as findings or trimmings under this subclause.

''(II) CERTAIN INTERLININGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

''(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

''(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

''(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this paragraph because the article contains yarns not wholly formed in

the United States or in 1 or more ATPEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such yarns is not more than 7 percent of the total weight of the good. Notwithstanding the preceding sentence, an apparel article containing elastomeric yarns shall be eligible for preferential treatment under this paragraph only if such yarns are wholly formed in the United States.

''(IV) SPECIAL ORIGIN RULE.—An article otherwise eligible for preferential treatment under clause (i) of this subparagraph shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS duty-free from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

''(V) CLARIFICATION OF CERTAIN KNIT APPAREL ARTICLES.—Notwithstanding any other provision of law, an article otherwise eligible for preferential treatment under clause (iii)(I) of this subparagraph, shall not be ineligible for such treatment because the article, or a component thereof, contains fabric formed in the United States from yarns wholly formed in the United States.

''(viii) TEXTILE LUGGAGE.—Textile luggage—

''(I) assembled in an ATPEA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTS; or

''(II) assembled from fabric cut in an ATPEA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States.

''(B) PREFERENTIAL TREATMENT.—Except as provided in subparagraph (E), during the transition period, the articles to which subparagraph (A) applies shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels.

''(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (A)(vi), the President shall consult with representatives of the ATPEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

''(D) PENALTIES FOR TRANSSHIPMENTS.—

''(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel articles from an ATPEA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.

''(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the ATPEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

''(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (B) has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (B).

''(E) BILATERAL EMERGENCY ACTIONS.—

''(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPEA beneficiary country if the application of tariff treatment under subparagraph (B) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

''(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

''(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

''(II) the term 'transition period' in section 4 of the Annex shall have the meaning given that term in paragraph (5)(D) of this subsection; and

''(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4.

''(3) TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.—

''(A) EQUIVALENT TARIFF TREATMENT.—

''(i) IN GENERAL.—Subject to clause (ii), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B), (D) through (F), or (H) of paragraph (1) that is an ATPEA originating good, imported directly into the customs territory of the United States from an ATPEA beneficiary country, shall be identical to the tariff treatment that is accorded at such time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTS that is a good of Mexico and is imported into the United States.

''(ii) EXCEPTION.—Clause (i) does not apply to—

''(I) any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS; or

''(II) any article described in subheading 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.30, 6402.99.80, 6402.99.90, 6403.91.60, 6404.11.50, 6404.11.60, 6404.11.70, 6404.11.80, 6404.11.90, 6404.19.20, 6404.19.35, 6404.19.50, or 6404.19.70 of the HTS.

''(B) RELATIONSHIP TO SUBSECTION (C) DUTY REDUCTIONS.—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(i) in regard to such period) apply with respect to any article under subsection (c) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.

''(C) SPECIAL RULE FOR SUGARS, SYRUPS, AND SUGAR CONTAINING PRODUCTS.—Duty-free treatment under this Act shall not be extended to sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas.

''(D) SPECIAL RULE FOR CERTAIN TUNA PRODUCTS.—

''(i) IN GENERAL.—The President may proclaim duty-free treatment under this Act for tuna that is harvested by United States vessels or ATPEA beneficiary country vessels, and is prepared or preserved in any manner, in airtight containers in an ATPEA beneficiary country. Such duty-free treatment may be proclaimed in any calendar year for a quantity of such tuna that does not exceed 20 percent of the domestic United States tuna pack in the preceding calendar year. As used in the preceding sentence, the term 'tuna pack' means tuna pack as defined by the National Marine Fisheries Service of the United States Department of Commerce for purposes of subheading 1604.14.20 of the HTS as in effect on the date of enactment of the Andean Trade Preference Expansion Act.

''(ii) UNITED STATES VESSEL.—For purposes of this subparagraph, a 'United States vessel' is a vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code.

''(iii) ATPEA VESSEL.—For purposes of this subparagraph, an 'ATPEA vessel' is a vessel—

''(I) which is registered or recorded in an ATPEA beneficiary country;

''(II) which sails under the flag of an ATPEA beneficiary country;

''(III) which is at least 75 percent owned by nationals of an ATPEA beneficiary country or by a company having its principal place of business in an ATPEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of an ATPEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by an ATPEA beneficiary country or by public bodies or nationals of an ATPEA beneficiary country;

''(IV) of which the master and officers are nationals of an ATPEA beneficiary country; and

''(V) of which at least 75 percent of the crew are nationals of an ATPEA beneficiary country.

''(4) CUSTOMS PROCEDURES.—

''(A) IN GENERAL.—

''(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (2) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

''(ii) DETERMINATION.—

''(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (2) or (3) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—

''(aa) has implemented and follows; or

''(bb) is making substantial progress toward implementing and following, procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

''(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPEA beneficiary country—

''(aa) from which the article is exported; or

''(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the

article is eligible for preferential treatment under paragraph (2) or (3).

''(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (2) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

''(C) REPORT BY USTR ON COOPERATION OF OTHER COUNTRIES CONCERNING CIRCUMVENTION.—The United States Commissioner of Customs shall conduct a study analyzing the extent to which each ATPEA beneficiary country—

''(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

''(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning fiber content, quantities, description, classification, or origin of textile and apparel goods; and

''(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Trade Representative shall submit to Congress, not later than October 1, 2002, a report on the study conducted under this subparagraph.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ANNEX.—The term 'the Annex' means Annex 300–B of the NAFTA.

''(B) ATPEA BENEFICIARY COUNTRY.—The term 'ATPEA beneficiary country' means any 'beneficiary country', as defined in section 203(a)(1) of this title, which the President designates as an ATPEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

''(i) Whether the beneficiary country has demonstrated a commitment to—

''(I) undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule; and

''(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

''(ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

''(iii) The extent to which the country provides internationally recognized worker rights, including—

''(I) the right of association;

''(II) the right to organize and bargain collectively;

''(III) a prohibition on the use of any form of forced or compulsory labor;

''(IV) a minimum age for the employment of children; and

''(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

''(iv) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974.

''(v) The extent to which the country has met the counter-narcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) for eligibility for United States assistance.

''(vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

''(vii) The extent to which the country—

''(I) applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act; and

''(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

''(C) ATPEA ORIGINATING GOOD.—

''(i) IN GENERAL.—The term 'ATPEA originating good' means a good that meets the rules of origin for a good set forth in chapter 4 of the NAFTA as implemented pursuant to United States law.

''(ii) APPLICATION OF CHAPTER 4.—In applying chapter 4 of the NAFTA with respect to an ATPEA beneficiary country for purposes of this subsection—

''(I) no country other than the United States and an ATPEA beneficiary country may be treated as being a party to the NAFTA;

''(II) any reference to trade between the United States and Mexico shall be deemed to refer to trade between the United States and an ATPEA beneficiary country;

''(III) any reference to a party shall be deemed to refer to an ATPEA beneficiary country or the United States; and

''(IV) any reference to parties shall be deemed to refer to any combination of ATPEA beneficiary countries or to the United States and one or more ATPEA beneficiary countries (or any combination thereof).

''(D) TRANSITION PERIOD.—The term 'transition period' means, with respect to an ATPEA beneficiary country, the period that begins on the date of enactment, and ends on the earlier of—

''(i) February 28, 2006; or

''(ii) the date on which the FTAA or another free trade agreement that makes substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of Public Law 103–182 (19 U.S.C. 3317(b)(5)) enters into force with respect to the United States and the ATPEA beneficiary country.

''(E) ATPEA.—The term 'ATPEA' means the Andean Trade Preference Expansion Act.

''(F) FTAA.—The term 'FTAA' means the Free Trade Area of the Americas.''.

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 203(e) of the Andean Trade Preference Act (19 U.S.C. 3202(e)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(1)''; and

(C) by adding at the end the following:

''(B) The President may, after the requirements of paragraph (2) have been met—

''(i) withdraw or suspend the designation of any country as an ATPEA beneficiary country; or

''(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b) (2) and (3) to any article of any country,

if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(5)(B).''; and

(2) by adding after paragraph (2) the following new paragraph:

''(3) If preferential treatment under section 204(b) (2) and (3) is withdrawn, suspended, or limited with respect to an ATPEA beneficiary country, such country shall not be deemed to be a 'party' for the purposes of applying section 204(b)(5)(C) to imports of articles for which preferential treatment has been withdrawn, suspended, or limited with respect to such country.''.

(c) REPORTING REQUIREMENTS.—Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended to read as follows:

''(f) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—Not later than December 31, 2002, and every 2 years thereafter during the period this title is in effect, the United States Trade Representative shall submit to Congress a report regarding the operation of this title, including—

''(A) with respect to subsections (c) and (d), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

''(B) the performance of each beneficiary country or ATPEA beneficiary country, as the case may be, under the criteria set forth in section 204(b)(5)(B).

''(2) PUBLIC COMMENT.—Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 204(b)(5)(B).''.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting ''(or other preferential treatment)'' after ''treatment''.

(B) Section 204(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(a)(1)) is amended by inserting ''(or otherwise provided for)'' after ''eligibility''.

(C) Section 204(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(a)(1)) is amended by inserting ''(or preferential treatment)'' after ''duty-free treatment''.

(2) DEFINITIONS.—Section 203(a) of the Andean Trade Preference Act (19 U.S.C. 3202(a)) is amended by adding at the end the following new paragraphs:

''(4) The term ''NAFTA'' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

''(5) The terms 'WTO' and 'WTO member' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).''.

SEC. 2104. TERMINATION.

(a) IN GENERAL.—Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b)) is amended to read as follows:

''(b) TERMINATION OF PREFERENTIAL TREATMENT.—No preferential duty treatment extended to beneficiary countries under this Act shall remain in effect after February 28, 2006.''.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), the entry—

(A) of any article to which duty-free treatment (or preferential treatment) under the Andean Trade Preference Act (19 U.S.C. 3201

et seq.) would have applied if the entry had been made on December 4, 2001,

(B) that was made after December 4, 2001, and before the date of the enactment of this Act, and

(C) to which duty-free treatment (or preferential treatment) under the Andean Trade Preference Act did not apply,

shall be liquidated or reliquidated as if such duty-free treatment (or preferential treatment) applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(4) PAYMENT.—No more than 75 percent of the amount due as a result of a liquidation or reliquidation filed under this subsection shall be paid in fiscal year 2002.

TITLE XXII—MISCELLANEOUS TRADE PROVISIONS

SEC. 2201. WOOL PROVISIONS.

(a) SHORT TITLE.—This section may be cited as the ''Wool Manufacturer Payment Clarification and Technical Corrections Act''.

(b) CLARIFICATION OF TEMPORARY DUTY SUSPENSION.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by inserting ''average'' before ''diameters''.

(c) PAYMENTS TO MANUFACTURERS OF CERTAIN WOOL PRODUCTS.—

(1) PAYMENTS.—Section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) is amended as follows:

(A) Subsection (a) is amended—

(i) by striking ''In each of the calendar years'' and inserting ''For each of the calendar years''; and

(ii) by striking ''for a refund of duties'' and all that follows through the end of the subsection and inserting ''for a payment equal to an amount determined pursuant to subsection (d)(1).''.

(B) Subsection (b) is amended to read as follows:

''(b) WOOL YARN.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).''.

(C) Subsection (c) is amended to read as follows:

''(c) WOOL FIBER AND WOOL TOP.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of wool yarn or wool fabric who imports wool fiber or wool top of the kind described in heading 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).''.

(D) Section 505 is further amended by striking subsection (d) and inserting the following new subsections:

''(d) AMOUNT OF ANNUAL PAYMENTS TO MANUFACTURERS.—

''(1) MANUFACTURERS OF MEN'S SUITS, ETC. OF IMPORTED WORSTED WOOL FABRICS.—

''(A) ELIGIBLE TO RECEIVE MORE THAN $5,000.—Each annual payment to manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each of the calendar years 2000, 2001, and 2002, shall be in an amount equal to one-third of the amount determined by multiplying $30,124,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each such calendar year under this section as it was in effect on that date.

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported worsted wool fabrics described in subsection (a).

''(C) OTHERS.—All manufacturers described in subsection (a), other than the manufacturer's to which subparagraph (A) applies, shall each receive an annual payment in an amount equal to one-third of the amount determined by dividing $1,665,000 by the number of all such other manufacturers.

''(2) MANUFACTURERS OF WORSTED WOOL FABRICS OF IMPORTED WOOL YARN.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (b)(1) shall be in an amount equal to one-third of the amount determined by multiplying $2,202,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (b)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool yarn described in subsection (b)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (b)(2) shall be in an amount equal to one-half of the amount determined by multiplying $141,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (b)(2).

''(3) MANUFACTURERS OF WOOL YARN OR WOOL FABRIC OF IMPORTED WOOL FIBER OR WOOL TOP.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (c)(1) shall be in an amount equal to one-third of the amount determined by multiplying $1,522,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (c)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool fiber or wool top described in subsection (c)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (c)(2) shall be in an amount equal to one-half of the amount determined by multiplying $597,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2).

''(4) LETTERS OF INTENT.—Except for the nonimporting manufacturers described in subsections (b)(2) and (c)(2) who may make claims under this section by virtue of the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, only manufacturers who, according to the records of the Customs Service, filed with the Customs Service before September 11, 2001, letters of intent to establish eligibility to be claimants are eligible to make a claim for a payment under this section.

''(5) AMOUNT ATTRIBUTABLE TO PURCHASES BY NONIMPORTING MANUFACTURERS.—

''(A) AMOUNT ATTRIBUTABLE.—For purposes of paragraphs (2)(C) and (3)(C), the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by a nonimporting manufacturer shall be the amount the nonimporting manufacturer paid for eligible wool products in calendar year 1999, as evidenced by invoices. The nonimporting manufacturer shall make such calculation and submit the resulting amount to the Customs Service, within 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, in a signed affidavit that attests that the information contained therein is true and accurate to the best of the affiant's belief and knowledge. The nonimporting manufacturer shall retain the records upon which the calculation is based for a period of five years beginning on the date the affidavit is submitted to the Customs Service.

''(B) ELIGIBLE WOOL PRODUCT.—For purposes of subparagraph (A)—

''(i) the eligible wool product for nonimporting manufacturers of worsted wool fabrics is wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States purchased in calendar year 1999; and

''(ii) the eligible wool products for nonimporting manufacturers of wool yarn or wool fabric are wool fiber or wool top of the kind described in heading 9902.51.14 of such Schedule purchased in calendar year 1999.

''(6) AMOUNT ATTRIBUTABLE TO DUTIES PAID.—For purposes of paragraphs (1), (2)(A), and (3)(A), the amount attributable to the duties paid by a manufacturer shall be the amount shown on the records of the Customs Service as of September 11, 2001, under this section as then in effect.

''(7) SCHEDULE OF PAYMENTS; REALLOCATIONS.—

''(A) SCHEDULE.—Of the payments described in paragraphs (1), (2)(A), and (3)(A), the Customs Service shall make the first installment on or before December 31, 2001, the second installment on or before April 15, 2002, and the third installment on or before April 15, 2003. Of the payments described in paragraphs (2)(C) and (3)(C), the Customs Service shall make the first installment on or before April 15, 2002, and the second installment on or before April 15, 2003.

''(B) REALLOCATIONS.—In the event that a manufacturer that would have received payment under subparagraph (A) or (C) of paragraph (1), (2), or (3) ceases to be qualified for such payment as such a manufacturer, the amounts otherwise payable to the remaining manufacturers under such subparagraph shall be increased on a pro rata basis by the amount of the payment such manufacturer would have received.

''(8) REFERENCE.—For purposes of paragraphs (1)(A) and (6), the 'records of the Customs Service as of September 11, 2001' are the records of the Wool Duty Unit of the Customs Service on September 11, 2001, as adjusted by the Customs Service to the extent necessary to carry out this section. The amounts so adjusted are not subject to administrative or judicial review.

''(e) AFFIDAVITS BY MANUFACTURERS.—

''(1) AFFIDAVIT REQUIRED.—A manufacturer may not receive a payment under this section for calendar year 2000, 2001, or 2002, as the case may be, unless that manufacturer has submitted to the Customs Service for that calendar year a signed affidavit that attests that, during that calendar year, the affiant was a manufacturer in the United States described in subsection (a), (b), or (c).

''(2) TIMING.—An affidavit under paragraph (1) shall be valid—

''(A) in the case of a manufacturer described in paragraph (1), (2)(A), or (3)(A) of subsection (d) filing a claim for a payment for calendar year 2000, only if the affidavit is postmarked no later than 15 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act; and

''(B) in the case of a claim for a payment for calendar year 2001 or 2002, only if the affidavit is postmarked no later than March 1, 2002, or March 1, 2003, respectively.

''(f) OFFSETS.—Notwithstanding any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2002 and 2003, shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act.

''(g) DEFINITION.—For purposes of this section, the manufacturer is the party that owns—

''(1) imported worsted wool fabric, of the kind described in heading 9902.51.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States, at the time the fabric is cut and sewn in the United States into men's or boys' suits, suit-type jackets, or trousers;

''(2) imported wool yarn, of the kind described in heading 9902.51.13 of such Schedule, at the time the yarn is processed in the United States into worsted wool fabric; or

''(3) imported wool fiber or wool top, of the kind described in heading 9902.51.14 of such Schedule, at the time the wool fiber or wool top is processed in the United States into wool yarn.''.

(2) FUNDING.—There is authorized to be appropriated such sums as are necessary to carry out the amendments made by paragraph (1).

SEC. 2202. CEILING FANS.

(a) IN GENERAL.—Notwithstanding any other provision of law, ceiling fans classified under subheading 8414.51.00 of the Harmonized Tariff Schedule of the United States imported from Thailand shall enter duty-free and without any quantitative limitations, if duty-free treatment under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) would have applied to such entry had the competitive need limitation been waived under section 503(d) of such Act.

(b) APPLICABILITY.—The provisions of this section shall apply to ceiling fans described in subsection (a) that are entered, or withdrawn from warehouse for consumption—

(1) on or after the date that is 15 days after the date of enactment of this Act; and

(2) before July 30, 2002.

SEC. 2203. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.

(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking ''4.9%'' and inserting ''Free''; and

(2) by striking ''12/31/2003'' and inserting ''12/31/2006''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

SEC. 2204. REVENUE PROVISIONS.

(a) DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 67 of the Internal Revenue Code of 1986 (relating to interest on underpayments) is amended by adding at the end the following new section:

''SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

''(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

''(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

''(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

''(d) PAYMENT OF INTEREST.—

''(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

''(2) DISPUTABLE TAX.—

''(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

''(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

''(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

''(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

''(i) has a reasonable basis for its treatment of such item, and

''(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

''(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

''(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

''(e) USE OF DEPOSITS.—

''(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

''(B) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 of such Code is amended by adding at the end the following new item:

''Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to deposits made after the date of the enactment of this Act.

(B) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

(b) PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.—

(1) IN GENERAL.—

(A) Section 6159(a) of the Internal Revenue Code of 1986 (relating to authorization of agreements) is amended—

(i) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and

(ii) by inserting ''full or partial'' after ''facilitate''.

(B) Section 6159(c) of such Code (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.

(2) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 of such Code is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

''(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of

an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to agreements entered into on or after the date of the enactment of this Act.

(c) EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.—

(1) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—No fee shall be imposed under this section for any request to which section 620(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001 applies.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category	Average Fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2005.''

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''

(B) Section 10511 of the Revenue Act of 1987 is repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to requests made after the date of the enactment of this Act.

SA 3400. Mr. BAYH (for himself, Mr. DURBIN, Mr. DAYTON, Ms. MIKULSKI, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed to amendment SA 3386 proposed by Mr. DASCHLE to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page A–35, line 1, strike all through page A–36, line 3, and insert the following:

''SEC. 225. NOTIFICATION BY INTERNATIONAL TRADE COMMISSION.

''(a) NOTIFICATION OF INVESTIGATION.—Whenever the International Trade Commission begins an investigation under section 202 with respect to an industry, the Commission shall immediately notify the Secretary of that investigation.

''(b) NOTIFICATION OF AFFIRMATIVE FINDING.—Whenever the International Trade Commission makes a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the Commission shall immediately notify the Secretary of that finding.

On page A–45, between lines 16 and 17, insert the following:

''(2) INDUSTRY-WIDE CERTIFICATION.—If the Secretary receives a petition under subsection (b)(2)(E) on behalf of all workers in a domestic industry producing an article or receives 3 or more petitions under subsection (b)(2) within a 180-day period on behalf of groups of workers producing the same article, the Secretary shall make a determination under subsections (a)(1) and (c)(1) of this section with respect to the domestic industry as a whole in which the workers are or were employed.

On page A–45, line 15, strike ''(2)'' and insert ''(3)''.

On page A–45, line 20, strike ''(3)'' and insert ''(4)''.

On page A–46, line 1, strike ''(4)'' and insert ''(5)''.

On page A–95, between lines 5 and 6, insert the following:

SEC. 113. COORDINATION WITH OTHER TRADE PROVISIONS.

(a) RECOMMENDATIONS BY ITC.—

(1) Section 202(e)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2252(e)(2)(D)) is amended by striking '', including the provision of trade adjustment assistance under chapter 2''.

(2) Section 203(a)(3)(D) of the Trade Act of 1974 (19 U.S.C. 2252(a)(3)(D)) is amended by striking '', including the provision of trade adjustment assistance under chapter 2''.

(b) ASSISTANCE FOR WORKERS.—Section 203(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2252(a)(1)(A)) is amended to read as follows:

''(A) After receiving a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry—

''(i) the President shall take all appropriate and feasible action within his power; and

''(ii) the Secretary of Labor, the Secretary of Agriculture, or the Secretary of Commerce, as appropriate, shall certify as eligible for trade adjustment assistance under section 231(a), 292, or 299B, workers, farmers, or fishermen who are or were employed in the domestic industry defined by the Commission if such workers, farmers, or fishermen become totally or partially separated, or are threatened to become totally or partially separated not more than 1 year before or not more than 1 year after the date on which the Commission made its report to the President under section 202(f).''.

(c) SPECIAL LOOK-BACK RULE.—Section 203(a)(1)(A) of the Trade Act of 1974 shall apply to a worker, farmer, or fisherman if not more than 1 year before the date of enactment of the Trade Adjustment Assistance Reform Act of 2002 the Commission notified the President of an affirmative determination under section 202(f) of such Act with respect the domestic industry in which such worker, farmer, or fisherman was employed.

Beginning on page A–120, line 7, strike all through page A–121, line 9, and insert the following:

''SEC. 294. NOTIFICATION BY INTERNATIONAL TRADE COMMISSION.

''(a) NOTIFICATION OF INVESTIGATION.—Whenever the International Trade Commission (in this chapter referred to as the 'Commission') begins an investigation under section 202 with respect to an agricultural commodity, the Commission shall immediately notify the Secretary of the investigation.

''(b) NOTIFICATION OF AFFIRMATIVE DETERMINATION.—Whenever the Commission makes a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry producing an agricultural commodity, the Commission shall immediately notify the Secretary of that finding.

Beginning on page A–136, line 3, strike all through page A–137, line 2, and insert the following:

''SEC. 299C. NOTIFICATION BY INTERNATIONAL TRADE COMMISSION.

''(a) NOTIFICATION OF INVESTIGATION.—Whenever the International Trade Commission (in this chapter referred to as the 'Commission') begins an investigation under section 202 with respect to fish or a class of fish, the Commission shall immediately notify the Secretary of the investigation.

''(b) NOTIFICATION OF AFFIRMATIVE DETERMINATION.—Whenever the Commission makes a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry producing fish or a class of fish, the Commission shall immediately notify the Secretary of that finding.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 9, 2002, at 9:30 a.m., in closed session to mark up the Department of Defense Authorization Act for Fiscal Year 2003.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, May 9, 2002, at 9:30 a.m., to hear testimony on revenue issues related to the Highway Trust Fund.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''judicial nominations'' on Thursday, May 9, 2002, in the Dirksen Room 226 at 2 p.m.

Witness List

Panel I: The Honorable Daniel K. Inouye; the Honorable Arlen Specter; the Honorable Daniel Akaka; the Honorable Rick Santorum; the Honorable Christopher Cox; the Honorable Tim Holden; and the Honorable Melissa Hart.

Panel II: Richard R. Clifton to be a U.S. Circuit Court Judge for the 9th Circuit.

Panel III: Christopher C. Conner to be a U.S. District Court Judge for the Middle District of Pennsylvania; Joy Flowers Conti to be a U.S. District Court Judge for the Western District of Pennsylvania; and John E. Jones, III to be a U.S. District Court Judge for the Middle District of Pennsylvania.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on ''Ghosts of Nominations Past: Setting the Record Straight'' on Thursday, May 9, 2002, at 10 a.m., in Dirksen 226.

Witness List

Panel I: The Honorable Jorge Rangel, the Rangel Law Firm, Corpus Christi, Texas; Kent Markus, Esq., Director, Dave Thomas Center for Adoption Law, Capital University Law School, Columbus, Ohio; Enrique Moreno, Esq., Law Offices of Enrique Moreno, EL Paso, Texas; and Bonnie Campbell, Esq., Former Attorney General of Iowa, Washington, DC.

Panel II: The Honorable C. Boyden Gray, Former White House Counsel, Washington, DC, and the Honorable Carlos Bea, Superior Court, San Francisco, CA.

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

SUBCOMMITTE ON OCEANS, ATMOSPHERE, AND FISHERIES

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere and Fisheries be authorized to meet on Thursday, May 9, 2002, at 9:30 a.m., on oversight of management issues at the National Marine Fisheries Service.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that on Monday, May 13, at 4 p.m., the Senate proceed to executive session to consider the following nomination: Calendar No. 815, Paul Cassell, to be a United States District Judge; that there be 2 hours for debate on the nomination equally divided between the chairman and the ranking member of the Judiciary Committee or their designees; that at 6 p.m., on Monday, the Senate vote on confirmation of the nomination; the motion to reconsider be laid upon the table; the President be immediately notified of the Senate's action; any statements thereon be printed in the RECORD; and the Senate return to legislative session, without any intervening action or debate.

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

EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2002

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives with respect to S. 1372.

The Presiding Officer laid before the Senate a message from the House, as follows:

Resolved, That the bill from the Senate (S. 1372) entitled ''An Act to reauthorize the Export-Import Bank of the United States'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Export-Import Bank Reauthorization Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Clarification that purposes include United States employment.
Sec. 3. Extension of authority.
Sec. 4. Administrative expenses.
Sec. 5. Increase in aggregate loan, guarantee, and insurance authority.
Sec. 6. Activities relating to Africa.
Sec. 7. Small business.
Sec. 8. Technology.
Sec. 9. Tied Aid Credit Fund.
Sec. 10. Expansion of authority to use Tied Aid Credit Fund.
Sec. 11. Renaming of Tied Aid Credit Program and Fund as Export Competitiveness Program and Fund.
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Sec. 23. Sense of the Congress.

SEC. 2. CLARIFICATION THAT PURPOSES INCLUDE UNITED STATES EMPLOYMENT.

Section 2(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)(1)) is amended by striking the 2nd sentence and inserting the following: ''The objects and purposes of the Bank shall be to aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals of any such country, and in so doing to contribute to the employment of United States workers. To further meet the objective set forth in the preceding sentence, the Bank shall ensure that its loans, guarantees, insurance, and credits are contributing to maintaining or increasing employment of United States workers.''.

SEC. 3. EXTENSION OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) are each amended by striking ''2001'' and inserting ''2005''.

SEC. 4. ADMINISTRATIVE EXPENSES.

(a) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is amended by adding at the end the following:

''(f) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—For administrative expenses incurred by the Bank, including technology-related expenses to carry out section 2(b)(1)(E)(x), there are authorized to be appropriated to the Bank not more than—

''(A) for fiscal year 2002, $80,000,000; and

''(B) for each of fiscal years 2003 through 2005, the amount authorized by this paragraph to be appropriated for the then preceding fiscal year, increased by the inflation percentage (as defined in section 6(a)(2)(B)) applicable to the then current fiscal year.

''(2) OUTREACH TO SMALL BUSINESSES WITH FEWER THAN 100 EMPLOYEES.—Of the amount appropriated pursuant to paragraph (1), there shall be available for outreach to small business concerns (as defined under section 3 of the Small Business Act) employing fewer than 100 employees, not more than—

''(A) $2,000,000 for fiscal year 2002; and

''(B) for each of fiscal years 2003 through 2005, the amount required by this paragraph to be made available for the then preceding fiscal year, increased by the inflation percentage (as defined in section 6(a)(2)(B)) applicable to the then current fiscal year.''.

(b) REQUIRED BUDGET SUBCATEGORIES.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

''(34) with respect to the amount of appropriations requested for use by the Export-Import Bank of the United States, a separate statement of the amount requested for its program budget, the amount requested for its administrative expenses, and of the amount requested for its administrative expenses, the amount requested for technology expenses and the amount requested for expenses for outreach to small business concerns (as defined under section 3 of the Small Business Act) employing fewer than 100 employees.''.

(c) SENSE OF THE CONGRESS ON THE IMPORTANCE OF TECHNOLOGY IMPROVEMENTS.—

(1) FINDINGS.—The Congress finds that—

(A) the Export-Import Bank of the United States is in great need of technology improvements;

(B) part of the amount budgeted for administrative expenses of the Export-Import Bank is used for technology initiatives and systems upgrades for computer hardware and software purchases;

(C) the Export-Import Bank is falling behind its foreign competitor export credit agencies' proactive technology improvements;

(D) small businesses disproportionately benefit from improvements in technology;

(E) small businesses need Export-Import Bank technology improvements in order to export transactions quickly, with as great paper ease as possible, and with a quick Bank turn-around time that does not overstrain the tight resources of such businesses;

(F) the Export-Import Bank intends to develop a number of e-commerce initiatives aimed at improving customer service, including web-based application and claim filing procedures which would reduce processing time, speed payment of claims, and increase staff efficiency;

(G) the Export-Import Bank is beginning the process of moving insurance applications from an outdated mainframe system to a modern, web-enabled database, with new functionality including credit scoring, portfolio management, work flow and e-commerce features to be added; and

(H) the Export-Import Bank wants to continue its e-commerce strategy, including web site development, expanding online applications and establishing a public/private sector technology partnership.

(2) SENSE OF THE CONGRESS.—The Congress emphasizes the importance of technology improvements for the Export-Import Bank of the United States, which are of particular importance for small businesses.

SEC. 5. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

Section 6(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)) is amended to read as follows:

''(a) LIMITATION ON OUTSTANDING AMOUNTS.—

''(1) IN GENERAL.—The Export-Import Bank of the United States shall not have outstanding at any one time loans, guarantees, and insurance in an aggregate amount in excess of the applicable amount.

''(2) APPLICABLE AMOUNT.—

''(A) IN GENERAL.—In paragraph (1), the term 'applicable amount' means—

''(i) during fiscal year 2002, $100,000,000,000, increased by the inflation percentage applicable to fiscal year 2002;

''(ii) during fiscal year 2003, $110,000,000,000, increased by the inflation percentage applicable to fiscal year 2003;

''(iii) during fiscal year 2004, $120,000,000,000, increased by the inflation percentage applicable to fiscal year 2004; and

''(iv) during fiscal year 2005, $130,000,000,000, increased by the inflation percentage applicable to fiscal year 2005.

''(B) INFLATION PERCENTAGE.—For purposes of subparagraph (A) of this paragraph, the inflation percentage applicable to any fiscal year is the percentage (if any) by which—

''(i) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on December 31 of the immediately preceding fiscal year; exceeds

''(ii) the average of the Consumer Price Index (as so defined) for the 12-month period ending on December 31 of the 2nd preceding fiscal year.

''(3) SUBJECT TO APPROPRIATIONS.—All spending and credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.''.

SEC. 6. ACTIVITIES RELATING TO AFRICA.

(a) EXTENSION OF ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.—Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking ''4 years after the date of enactment of this subparagraph'' and inserting ''on September 30, 2005''.

(b) COORDINATION OF AFRICA ACTIVITIES.—Section 2(b)(9)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(A)) is amended by inserting '', in consultation with the Department of Commerce and the Trade Promotion Coordinating Council,'' after ''shall''.

(c) CONTINUED REPORTS TO THE CONGRESS.—Section 7(b) of the Export-Import Bank Reauthorization Act of 1997 (12 U.S.C. 635 note) is amended by striking ''4'' and inserting ''8''.

(d) CREATION OF OFFICE ON AFRICA.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is further amended by adding at the end the following:

''(g) OFFICE ON AFRICA.—

''(1) ESTABLISHMENT.—There is established in the Bank an Office on Africa.

''(2) FUNCTION.—The Office on Africa shall focus on increasing Bank activities in Africa and increasing visibility among United States companies of African markets for exports.

''(3) REPORTS.—The Office on Africa shall, from time to time not less than annually, report to the Board on the matters described in paragraph (2).''.

SEC. 7. SMALL BUSINESS.

(a) IN GENERAL.—Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended—

(1) by striking ''10'' and inserting ''20''; and

(2) by inserting '', and from such amount, not less than 8 percent of such authority shall be made available for small business concerns employing fewer than 100 employees'' before the period.

(b) OUTREACH TO BUSINESSES OWNED BY SOCIALLY DISADVANTAGED INDIVIDUALS OR WOMEN.—Section 2(b)(1)(E)(iii)(II) of such Act (12 U.S.C. 635(b)(1)(E)(iii)(II)) is amended by inserting after ''Bank'' the following: '', with particular emphasis on conducting outreach and increasing loans to businesses not less than 51 percent of which are directly and unconditionally owned by 1 or more socially disadvantaged individuals (as defined in section 8(a)(5) of the Small Business Act) or women,''.

(c) OFFICE FOR SMALL BUSINESS EXPORTERS.—Section 3 of such Act (12 U.S.C. 635a) is further amended by adding at the end the following:

''(h) OFFICE FOR SMALL BUSINESS EXPORTERS.—

''(1) ESTABLISHMENT.—There is established in the Bank an Office for Small Business Exporters.

''(2) FUNCTION.—The Office for Small Business Exporters shall focus on increasing Bank activities to enhance small business exports and to meet the unique trade finance needs of small business exporters.

''(3) REPORTS.—The Office for Small Business Exporters shall, from time to time not less than annually, report to the Board on the how the Office for Small Business Exporters is achieving the goals as described in paragraph (2).

''(4) SENSE OF CONGRESS.—It is the sense of the Congress that the Bank should redirect and prioritize existing resources and personnel to establish the Office for Small Business Exporters.''.

SEC. 8. TECHNOLOGY.

(a) SMALL BUSINESS.—Section 2(b)(1)(E) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)) is amended by adding at the end the following:

''(x) The Bank shall implement technology improvements which are designed to improve small business outreach, including allowing customers to use the Internet to apply for all Bank programs.''.

(b) ELECTRONIC TRACKING OF PENDING TRANSACTIONS.—Section 2(b)(1) of such Act (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

''(J) The Bank shall implement an electronic system designed to track all pending transactions of the Bank.''.

(c) REPORTS.—

(1) IN GENERAL.—During each of fiscal years 2002 through 2005, the Export-Import Bank of the United States shall submit to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate an interim report and a final report on the efforts made by the Bank to carry out subsections (E)(x) and (J) of section 2(b)(1) of the Export-Import Bank Act of 1945, and on how the efforts are assisting small businesses.

(2) TIMING.—The interim report required by paragraph (1) for a fiscal year shall be submitted April 30 of the fiscal year, and the final report so required for a fiscal year shall be submitted on November 1 of the succeeding fiscal year.

SEC. 9. TIED AID CREDIT FUND.

(a) PRINCIPLES, PROCESS, AND STANDARDS.—Section 10(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(b)) is amended—

(1) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) in consultation with the Secretary and in accordance with the principles, process, and standards developed pursuant to paragraph (5) of this subsection and the purposes described in subsection (a)(5);''; and

(2) by adding at the end the following:

''(5) PRINCIPLES, PROCESS, AND STANDARDS GOVERNING USE OF THE FUND.—

''(A) IN GENERAL.—The Secretary and the Bank jointly shall develop a process for, and the principles and standards to be used in, determining how the amounts in the Tied Aid Credit Fund could be used most effectively and efficiently to carry out the purposes of subsection (a)(6).

''(B) CONTENT OF PRINCIPLES, PROCESS, AND STANDARDS.—

''(i) CONSIDERATION OF CERTAIN PRINCIPLES AND STANDARDS.—In developing the principles and standards referred to in subparagraph (A), the Secretary and the Bank shall consider administering the Tied Aid Credit Fund in accordance with the following principles and standards:

''(I) The Tied Aid Credit Fund should be used to leverage multilateral negotiations to restrict the scope for aid-financed trade distortions through new multilateral rules, and to police existing rules.

''(II) The Tied Aid Credit Fund will be used to counter a foreign tied aid credit confronted by a United States exporter when bidding for a capital project.

''(III) Credible information about an offer of foreign tied aid will be required before the Tied Aid Credit Fund is used to offer specific terms to match such an offer.

''(IV) The Tied Aid Credit Fund will be used to enable a competitive United States exporter to pursue further market opportunities on commercial terms made possible by the use of the Fund.

''(V) Each use of the Tied Aid Credit Fund will be in accordance with the Arrangement unless a breach of the Arrangement has been committed by a foreign export credit agency.

''(VI) The Tied Aid Credit Fund may only be used to defend potential sales by United States companies to a project that is environmentally sound.

''(VII) The Tied Aid Credit Fund may be used to preemptively counter potential foreign tied aid offers without triggering foreign tied aid use.

''(ii) LIMITATION.—The principles, process and standards referred to in subparagraph (A) shall not result in the Secretary having the authority to veto a specific deal.

''(C) INITIAL PRINCIPLES, PROCESS, AND STANDARDS.—As soon as is practicable but not later than 6 months after the date of the enactment of this paragraph, the Secretary and the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards developed pursuant to subparagraph (A).

''(D) TRANSITIONAL PRINCIPLES AND STANDARDS.—The principles and standards set forth in subparagraph (B)(i) shall govern the use of the Tied Aid Credit Fund until the principles, process, and standards required by subparagraph (C) are submitted.

''(E) UPDATE AND REVISION.—The Secretary and the bank jointly should update and revise, as needed, the principles, process, and standards developed pursuant to subparagraph (A), and, on doing so, shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards so updated and revised.''.

(b) RECONSIDERATION OF BOARD DECISIONS ON USE OF FUND.—Section 10(b) of such Act (12 U.S.C. 635i–3(b)) is further amended by adding at the end the following:

''(6) RECONSIDERATION OF DECISIONS.—

''(A) IN GENERAL.—Taking into consideration the time sensitivity of transactions, the Board of Directors of the Bank shall expeditiously pursuant to paragraph (2) reconsider a decision of the Board to deny an application of the use of the Tied Aid Credit Fund if the applicant submits the request for reconsideration within 3 months of the denial.

''(B) PROCEDURAL RULES.—In any such reconsideration, the applicant may be required to, provide new information on the application.''.

SEC. 10. EXPANSION OF AUTHORITY TO USE TIED AID CREDIT FUND.

(a) UNTIED AID.—

(1) NEGOTIATIONS.—The Secretary of the Treasury shall seek to negotiate an OECD Arrangement on Untied Aid. In the negotiations, the Secretary should seek agreement on subjecting untied aid to the rules governing the Arrangement, including the rules governing disclosure.

(2) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the successes, failures, and obstacles in initiating negotiations, and if negotiations were initiated, in reaching the agreement described in paragraph (1).

(b) MARKET WINDOWS.—

(1) NEGOTIATIONS.—The Secretary of the Treasury shall seek to negotiate an OECD Arrangement on Market Windows. In the negotiations, the Secretary should seek agreement on subjecting market windows to the rules governing the Arrangement, including the rules governing disclosure.

(2) REPORT TO THE CONGRESS.—Within 2 years after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the successes, failures, and obstacles in initiating negotiations, and if negotiations were initiated, in reaching the agreement described in paragraph (1).

(c) USE OF TIED AID CREDIT FUND TO COMBAT UNTIED AID.—Section 10 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3) is amended in subsection (a)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by inserting '', or untied aid,'' before ''for commercial'' the 1st and 3rd places it appears; and

(C) by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following:

''(5) the Bank has, at a minimum, the following two tasks:

''(A)(i) First, the Bank should match, and even overmatch, foreign export credit agencies and aid agencies when they engage in tied aid outside the confines of the Arrangement and when they exploit loopholes, such as untied aid;

''(ii) such matching and overmatching is needed to provide the United States with leverage in efforts at the OECD to reduce the overall level of export subsidies;

''(iii) only through matching or bettering foreign export credit offers can the Bank buttress United States negotiators in their efforts to bring these loopholes within the disciplines of the Arrangement; and

''(iv) in order to bring untied aid within the discipline of the Arrangement, the Bank should sometimes initiate highly competitive financial support when the Bank learns that foreign untied aid offers will be made; and

''(B) Second, the Bank should support United States exporters when the exporters face foreign competition that is consistent with the letter and spirit of the Arrangement and the Subsidies Code of the World Trade Organization, but which nonetheless is more generous than the terms available from the private financial market; and''.

(d) DEFINITION OF MARKET WINDOW.—Section 10(h) of such Act (12 U.S.C. 635i–3(h)) is amended by adding at the end the following:

''(7) MARKET WINDOW.—The term 'market window' means the provision of export financing through an institution (or a part of an institution) that claims to operate on a commercial basis while benefiting directly or indirectly from some level of government support.''.

SEC. 11. RENAMING OF TIED AID CREDIT PROGRAM AND FUND AS EXPORT COMPETITIVENESS PROGRAM AND FUND.

Section 10 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3) is further amended—

(1) by striking all that precedes paragraph (1) of subsection (a) and inserting the following:

''SEC. 10. EXPORT COMPETITIVENESS FUND.

''(a) FINDINGS.—The Congress finds that—'';

(2) in subsection (a)(6) (as so redesignated by section 9(c)(1)(D) of this Act), by striking ''tied aid program'' and inserting ''export competitiveness program'';

(3) in the heading of subsection (b), by striking ''TIED AID CREDIT'' and inserting ''EXPORT COMPETITIVENESS'';

(4) in subsection (b)(1)—

(A) by striking ''tied aid credit program'' and inserting ''export competitiveness program''; and

(B) by striking ''Tied Aid Credit fund'' and inserting ''Export Competitiveness Fund'';

(5) in subsection (b)(2), by striking ''tied aid credit program'' and inserting ''export competitiveness program'';

(6) in subsection (b)(3)—

(A) by striking ''tied aid credit program'' and inserting ''export competitiveness program''; and

(B) by striking ''Tied Aid Credit Fund'' and inserting ''Export Competitiveness Fund'';

(7) in subsection (b)(5) (as added by section 9(a)(2) of this Act), by striking ''Tied Aid Credit Fund'' each place it appears and inserting ''Export Competitiveness Fund'';

(8) in subsection (b)(6) (as added by section 9(b) of this Act), by striking ''Tied Aid Credit Fund'' and inserting ''Export Competitiveness Fund'';

(9) in subsection (c)—

(A) in the subsection heading, by striking ''TIED AID CREDIT'' and inserting ''EXPORT COMPETITIVENESS''; and

(B) in paragraph (1), by striking ''Tied Aid Credit'' and inserting ''Export Competitiveness'';

(10) in subsection (d), by striking ''tied aid credit'' and inserting ''export competitiveness''; and

(11) in subsection (g)(2)(C), by striking ''Tied Aid Credit'' and inserting ''Export Competitiveness''.

SEC. 12. ANNUAL COMPETITIVENESS REPORT.

(a) TIMING.—

(1) IN GENERAL.—Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)) is amended in the 4th sentence by striking ''on an annual basis'' and inserting ''on June 30 of each year''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to reports for calendar years after calendar year 2000.

(b) ADDITIONAL MATTERS TO BE ADDRESSED.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is amended by adding at the end the following: ''The Bank shall include in the annual report a description of the volume of financing provided by each foreign export credit agency, and a description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support.''.

(c) NUMBER OF SMALL BUSINESS SUPPLIERS OF BANK USERS.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further amended by adding at the end the following: ''The Bank shall estimate on the basis of an annual survey or tabulation the number of entities that are suppliers of users of the Bank and that are small business concerns (as defined under section 3 of the Small Business Act) located in the United States, and shall include the estimate in the annual report.''.

(d) OUTREACH TO BUSINESSES OWNED BY SOCIALLY DISADVANTAGED INDIVIDUALS OR BY WOMEN.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further amended by adding at the end the following: ''The Bank shall include in the annual report a description of outreach efforts made by the Bank to any business not less than 51 percent of which is directly and unconditionally owned by 1 or more socially disadvantaged individuals (as defined in section 8(a)(5) of the Small Business Act) or women, and any data on the results of such efforts.''.

SEC. 13. RENEWABLE ENERGY SOURCES.

(a) PROMOTION.—Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)), as amended by section 8(b) of this Act, is amended by adding at the end the following:

''(K) The Bank shall promote the export of goods and services related to renewable energy sources.''.

(b) DESCRIPTION OF EFFORTS TO BE INCLUDED IN ANNUAL COMPETITIVENESS REPORT.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further amended by adding at the end the following: ''The Bank shall include in the annual report a description of the efforts undertaken under subparagraph (K).''.

SEC. 14. GAO REPORTS.

(a) POTENTIAL OF WTO TO REMEDY UNTIED AID AND MARKET WINDOWS.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that examines—

(1) whether a case could be brought by the United States in the World Trade Organization seeking relief against untied aid and market windows, and if so, the kinds of relief that would be available if the United States were to prevail in such a case; and

(2) the scope of penalty tariffs that the United States could impose against imports from a country that uses untied aid or market windows.

(b) COMPARATIVE RESERVE PRACTICES OF EXPORT CREDIT AGENCIES AND PRIVATE BANKS.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that examines the reserve ratios of the Export-Import Bank of the United States as compared with the reserve practices of private banks and foreign export credit agencies.

SEC. 15. HUMAN RIGHTS.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by inserting ''(as provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948)'' after ''human rights''.

SEC. 16. STEEL.

(a) REEVALUATION.—The Export-Import Bank of the United States shall re-assess the effects of the approval by the Bank of an $18,000,000 medium-term guarantee to support the sale of computer software, control systems, and main drive power supplies to Benxi Iron & Steel Company, in Benxi, Liaoning, China, for the purpose of evaluating whether the adverse impact test of the Bank sufficiently takes account of the interests of United States industries.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the re-assessment required by subsection (a).

SEC. 17. CORRECTION OF REFERENCES.

(a) Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by striking ''Banking and''.

(b) Each of the following provisions of the Export-Import Bank Act of 1945 is amended by striking ''Banking, Finance and Urban Affairs'' and inserting ''Financial Services'':

(1) Section 2(b)(6)(D)(i)(III) (12 U.S.C. 635(b)(6)(D)(i)(III)).

(2) Section 2(b)(6)(H) (12 U.S.C. 635(b)(6)(H)).

(3) Section 2(b)(6)(I)(i)(II) (12 U.S.C. 635(b)(6)(I)(i)(II)).

(4) Section 2(b)(6)(I)(iiii) (12 U.S.C. 635(b)(6)(I)(iii)).

(5) Section 10(g)(1) (12 U.S.C. 635i–3(g)(1)).

SEC. 18. AUTHORITY TO DENY APPLICATION FOR ASSISTANCE BASED ON FRAUD OR CORRUPTION BY THE APPLICANT.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

''(f) AUTHORITY TO DENY APPLICATION FOR ASSISTANCE BASED ON FRAUD OR CORRUPTION BY PARTY TO THE TRANSACTION.—In addition to any other authority of the Bank, the Bank may deny an application for assistance with respect to a transaction if the Bank has substantial credible evidence that any party to the transaction has committed an act of fraud or corruption in connection with a transaction involving a good or service that is the same as, or substantially similar to, a good or service the export of which is the subject of the application.''.

SEC. 19. CONSIDERATION OF FOREIGN COUNTRY HELPFULNESS IN EFFORTS TO ERADICATE TERRORISM.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is further amended by adding at the end the following:

''(L) It is further the policy of the United States that, in considering whether to guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or information by a national or agency of any nation, the Bank shall take into account the extent to which the nation has been helpful or unhelpful in efforts to eradicate terrorism. The Bank shall consult with the Department of State to determine the degreee to which each relevant nation has been helpful or unhelpful in efforts to eradicate terrorism.''.

SEC. 20. OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.

Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) is amended—

(1) in paragraph (2), by striking ''Paragraph (1)'' and inserting ''Paragraphs (1) and (2)''; and

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following:

''(2) OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.—

''(A) ORDERS.—The Bank shall not provide any loan or guarantee to an entity for the resulting production of substantially the same product that is the subject of—

''(i) a countervailing duty or antidumping order under title VII of the Tariff Act of 1930; or

''(ii) a determination under title II of the Trade Act of 1974.

''(B) AFFIRMATIVE DETERMINATION.—Within 60 days after the date of the enactment of this Act, the Bank shall establish procedures regarding loans or guarantees provided to any entity that is subject to a preliminary determination of a reasonable indication of material injury to an industry under title VII of the Tariff Act of 1930. The procedures shall help to ensure that these loans and guarantees are likely to not result in a significant increase in imports of substantially the same product covered by the preliminary determination and are likely to not have a significant adverse impact on the domestic industry. The Bank shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of these procedures.

''(C) COMMENT PERIOD.—The Bank shall establish procedures under which the Bank shall notify interested parties and provide a comment period with regard to loans or guarantees reviewed pursuant to subparagraph (B).''.

SEC. 21. SENSE OF THE CONGRESS RELATING TO RENEWABLE ENERGY TARGETS.

(a) ALLOCATION OF ASSISTANCE AMONG ENERGY PROJECTS.—It is the sense of the Congress that, of the total amount available to the Export-Import Bank of the United States for the extension of credit for transactions related to energy projects, the Bank should, not later than the beginning of fiscal year 2006, use—

(1) not more than 95 percent for transactions related to fossil fuel projects; and

(2) not less than 5 percent for transactions related to renewable energy and energy efficiency projects.

(b) DEFINITION OF RENEWABLE ENERGY.—In this section, the term ''renewable energy'' means projects related to solar, wind, biomass, fuel cell, landfill gas, or geothermal energy sources.

SEC. 22. REQUIREMENT THAT APPLICANTS FOR ASSISTANCE DISCLOSE WHETHER THEY HAVE VIOLATED THE FOREIGN CORRUPT PRACTICES ACT; MAINTENANCE OF LIST OF VIOLATORS.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is further amended by adding at the end the following:

''(M) The Bank shall require an applicant for assistance from the Bank to disclose whether the applicant has been found by a court of the United States to have violated the Foreign Corrupt Practices Act, and shall maintain a list of persons so found to have violated such Act.''.

SEC. 23. SENSE OF THE CONGRESS.

It is the sense of the Congress that, when considering a proposal for assistance for a project that is worth $10,000,000 or more, the management of the Export-Import Bank of the United States should have available for review a detailed assessment of the potential human rights impact of the proposed project.

Mr. REID. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment, agree to the request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, without intervening action or debate.

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

The PRESIDING OFFICER (Mr. WELLSTONE) appointed Mr. SARBANES, Mr. DODD, Mr. JOHNSON, Mr. BAYH, Mr. GRAMM, Mr. SHELBY, and Mr. HAGEL conferees on the part of the Senate.

STAR PRINT—S. 2430

Mr. REID. Mr. President, I ask unanimous consent that S. 2430 be star printed with the changes at the desk.

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

MEASURE READ THE FIRST TIME—H.R. 4560

Mr. REID. Mr. President, it is my understanding that H.R. 4560 has been received from the House and is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant bill clerk read as follows:

A bill (H.R. 4560) to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

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

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

ORDERS FOR FRIDAY, MAY 10, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until 10 a.m., Friday, May 10; that following the prayer and the pledge, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the majority leader and the Republican leader or their designees; further, at 11 a.m., the Senate resume consideration of the trade bill.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:28 p.m., recessed until Friday, May 10, 2002, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 9, 2002:

THE JUDICIARY

LEONARD E. DAVIS, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS.

ANDREW S. HANEN, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

SAMUEL H. MAYS, JR., OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE.

THOMAS M. ROSE, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO.

Daily Digest

HIGHLIGHTS

The House passed H.R. 4546, Bob Stump National Defense Authorization Act for FY 2003.

Senate

Chamber Action

Routine Proceedings, pages S4085–S4184

Measures Introduced: Sixteen bills and one resolution were introduced, as follows: S. 2487–2502, and S. Con. Res. 109. **Pages S4145–46**

Measures Reported:

Report to accompany S. 625, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes. (S. Rept. No. 107–147) **Page S4145**

Andean Trade Preference Expansion Act: Senate continued consideration of H.R. 3009, to extend the Andean Trade Preference Act, and to grant additional trade benefits under that Act, taking action on the following amendments proposed thereto: **Pages S4125, S4137, S4137**

Withdrawn:

Lott Amendment No. 3399 (to Amendment No. 3386), of a perfecting nature with respect to trade promotion authority. **Page S4125**

Pending:

Daschle Amendment No. 3386, in the nature of a substitute. **Page S4125**

A motion was entered to close further debate on Lott Amendment No. 3399 (to Amendment No. 3386), listed above. **Page S4125**

Subsequently, the cloture motion was withdrawn. **Page S4125**

A unanimous-consent agreement was reached providing for further consideration of the bill at 11 a.m., on Friday, May 10, 2002. **Page S4184**

Nominations—Agreement: A unanimous-consent-time agreement was reached providing for consideration of Paul G. Cassell, to be United States District Judge for the District of Utah, at 4 p.m. on Monday, May 13, 2002, with a vote on confirmation of the nomination to occur at 6 p.m. **Page S4181**

Export-Import Bank Authorization: Senate disagreed to the House amendment to S. 1372, to reauthorize the Export-Import Bank of the United States, agreed to the House request for a conference, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Sarbanes, Dodd, Johnson, Bayh, Gramm, Shelby, and Hagel. **Pages S4181–84**

Messages From the President: Senate received the following messages from the President of the United States during the adjournment of the Senate on May 3, 2002:

Transmitting, pursuant to law, a report to restore nondiscriminatory trade treatment (normal trade relations treatment) to the products of Afghanistan; to the Committee on Finance. (PM–83) **Page S4143**

Transmitting, pursuant to law, a report relative to two deferrals of budget authority, totaling $2 Billion; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on Appropriations; the Budget; and Foreign Relations. (PM–84) **Page S4143**

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 97 yeas (Vote No. EX. 104), Leonard E. Davis, of Texas, to be United States District Judge for the Eastern District of Texas. **Pages S4089–S4102, S4184**

By unanimous vote of 97 yeas (Vote No. EX. 105), Andrew S. Hanen, of Texas, to be United States District Judge for the Southern District of Texas. **Pages S4089–S4103, S4184**

By unanimous vote of 97 yeas (Vote No. EX. 106), Samuel H. Mays, Jr., of Tennessee, to be United States District Judge for the Western District of Tennessee. **Pages S4089–S4103, S4184**

By unanimous vote of 97 yeas (Vote No. EX. 107), Thomas M. Rose, of Ohio, to be United States District Judge for the Southern District of Ohio. **Pages S4089–S4103, S4184**

Messages From the House: Page S4143
Measures Referred: Page S4143
Measures Placed on Calendar: Page S4143
Measures Read First Time: Page S4143
Executive Communications: Pages S4143–45
Additional Cosponsors: Pages S4146–47
Statements on Introduced Bills/Resolutions: Pages S4147–66
Additional Statements: Pages S4141–43
Amendments Submitted: Pages S4166–80
Authority for Committees to Meet: Pages S4180–81

Record Votes: Four record votes were taken today. (Total—107) Pages S4102–03

Adjournment: Senate met at 10 a.m., and adjourned at 6:28 p.m., until 10 a.m., on Friday, May 10, 2002.

Committee Meetings

(Committees not listed did not meet)

AUTHORIZATION—DEFENSE

Committee on Armed Services: Committee continued in evening session to mark up proposed legislation authorizing funds for fiscal year 2003 for military activities of the Department of Defense.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee met and approved the issuance of a subpoena to compel the testimony of certain witnesses.

NATIONAL MARINE FISHERIES SERVICE

Committee on Commerce, Science, and Transportation: Subcommittee on Oceans, Atmosphere, and Fisheries held oversight hearings to examine management issues at the National Marine Fisheries Services, receiving testimony from William T. Hogarth, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce; Ray Kammer, Boyd, Maryland, former Deputy Under Secretary of Commerce for the National Oceanic and Atmospheric Administration; David Benton, North Pacific Fishery Management Council, Anchorage, Alaska, on behalf of the North Pacific Research Board; Penelope D. Dalton, Consortium for Oceanographic Research and Education, Washington, D.C.; Richard E. Gutting, Jr., National Fisheries Institute, Arlington, Virginia; and Suzanne Iudicello, Rapid City, South Dakota.

Hearings recessed subject to call.

PUBLIC LANDS AND FORESTS

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests concluded hearings on S. 454, to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program, S. 1139, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries, S. 1325, to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, S. 1497/H.R. 2385, to convey certain property to the city of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property, S. 1711/H.R. 1576, to designate the James Peak Wilderness and the James Peak Protection Area in the State of Colorado, and S. 1907, to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon, after receiving testimony from Senator Hatch; Representative Udall; H.T. Johnson, Assistant Secretary of the Navy for Installations and Environment; Randal Bowman, Special Assistant to the Assistant Secretary for Fish, Wildlife, and Parks, Chris Kearney, Deputy Assistant Secretary for Policy and International Affairs, and Larry Finfer, Assistant Director for Communications, Bureau of Land Management, all of the Department of the Interior; Gloria Manning, Associate Deputy Chief, National Forest System, Forest Service, Department of Agriculture; and Janet S. Porter, Catron County Office of the Treasurer, Reserve, New Mexico, on behalf of the National Association of Counties.

HIGHWAY TRUST FUND

Committee on Finance: Committee held hearings to examine revenue issues related to the Highway Trust Fund, including improving projection and tax estimation efficiency and accuracy, highway program size accommodation, and enhancing tax collection to accommodate a growing program, receiving testimony from Andrew Lyon, Deputy Assistant Secretary of the Treasury for Tax Analysis; JayEtta Z. Hecker, Director, Physical Infrastructure Issues, General Accounting Office; and Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit, Congressional Budget Office.

Hearings recessed subject to call.

CONSOLIDATED STUDENT LOAN INTEREST RATES

Committee on Health, Education, Labor, and Pensions: Committee began hearings to examine Federal student aid programs, receiving testimony from William D. Hansen, Deputy Secretary of Education.

Hearings recessed subject to call.

NOMINATION PROCESS

Committee on the Judiciary: Subcommittee on Administrative Oversight and the Courts concluded hearings to examine the federal judicial selection and confirmation of nominations process, after receiving testimony from Bonnie J. Campbell, former Counsel to the U.S. Attorney General, and former Attorney General of Iowa, and C. Boyden Gray, former White House Counsel, both of Washington, D.C.; Judge Carlos Bea, California Superior Court, San Francisco; Jorge C. Rangel, Rangel Law Firm, Corpus Christi, Texas; Kent Markus, Capital University Law School Dave Thomas Center for Adoption Law, Columbus, Ohio; and Enrique Moreno, Law Offices of Enrique Moreno, El Paso, Texas.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Richard R. Clifton, of Hawaii, to be United States Circuit Judge for the Ninth Circuit, Christopher C. Conner, to be United States District Judge for the Middle District of Pennsylvania, Joy Flowers Conti, to be United States District Judge for the Western District of Pennsylvania, and John E. Jones III, to be United States District Judge for the Middle District of Pennsylvania, after the nominees testified and answered questions in their own behalf. Mr. Clifton was introduced by Senators Inouye and Akaka, Mr. Conner was introduced by Senators Santorum and Specter, Ms. Conti was introduced by Senators Santorum and Specter, and Representative Hart, and Mr. Jones was introduced by Senators Santorum and Specter, and Representative Cox.

INTELLIGENCE AUTHORIZATION

Select Committee on Intelligence: On Wednesday, May 8, Committee ordered favorably reported an original bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

House of Representatives

Chamber Action

Measures Introduced: 26 public bills, H.R. 4687–4712; 1 private bill, H.R. 4713; and 2 resolutions, H. Con. Res. 401 and H. Res. 416, were introduced. **Pages H2354–55**

Reports Filed: Reports were filed today as follows:

H.R. 1462, to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land, amended (H. Rept. 107–451, Pt. 1). **Page H2354**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Samuel P. Warner, First Presbyterian Church of Lumberton, North Carolina. **Page H2237**

Annual Meeting of the Former Members of Congress: Pursuant to the order of the House of Thursday, May 2, the House recessed to receive former Members of Congress in the House Chamber. Subsequently agreed that the proceedings had during the recess be printed in today's Congressional Record. **Pages H2237–45**

Recess: The House recessed at 9:06 a.m. and reconvened at 10:41 a.m. **Pages H2237, H2245**

Motions to Adjourn: Rejected the Taylor of Mississippi motions to adjourn by a yea-and-nay vote of 44 yeas to 366 nays, Roll No. 134 and by a recorded vote of 35 ayes to 375 nays, Roll No. 137. **Pages H2248–49, H2264–65**

Bob Stump National Defense Authorization Act: The House passed H.R. 4546, to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, and for military construction, to prescribe military personnel strengths for fiscal year 2003 by a recorded vote of 359 ayes to 58 noes, Roll No. 158. The title was amended so as to read: "A bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to

prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.''.

Pages H2265 (continued next issue)

Rejected the Spratt motion that sought to recommit the bill to the Committee on Armed Forces with instructions to report it back to the House forthwith with an amendment that prohibits the use of funds to develop or deploy a nuclear-tipped ballistic missile interceptor by a recorded vote of 193 ayes to 223 noes, Roll No. 157. (See next issue.)

Agreed to the Committee on Armed Services amendment in the nature of a substitute now printed in the bill (H. Rept. 107–436) and made in order by the rule as an original bill for the purpose of amendment. Page H2282

Agreed To:

Stump en bloc amendments numbered 11, 12, 13, 14, 16, 17, 18, 19, 20, 22 (Snyder), 23, 24, and 22 (Tiahrt) and printed in Part B of H. Rept. 107–450 that allows the use of DNA samples maintained by DOD for law enforcement purposes; expresses the sense of Congress that no less than 12 Navy aircraft carriers should be in active service and commends carrier crews; establishes a National Foreign Language Skills Registry; extends base contract for Navy-Marine Corps intranet to seven years; renews certain procurement technical assistance cooperative agreements at funding levels to support existing programs; prohibits Navy procurement of T–5 fuel tankers unless specifically authorized; conveys assets at Fort Monmouth, New Jersey to build or rehabilitate military housing; requires a report on the contract award for the lead design agent for the DD(X) ship program by March 31, 2003; authorizes three Navy pilot projects for the acquisition of military unaccompanied housing; authorizes gifts to the National Defense University; authorizes professional certification standards for accounting positions; reallocates Air Force Reserve F–16 funding for 36 Litening II modernization upgrade kits; and limits future Department of Defense reporting requirements to five years; Pages H2328–33

Weldon of Pennsylvania amendment numbered 1, printed in part A of H. Rept. 107–450, as modified, that provides a statement of policy with regard to enhanced cooperation between the United States and Russian Federation to promote mutual security (agreed to by a recorded vote of 362 ayes to 53 noes, Roll No. 142); Pages H2333–38, H2348–49

Tauscher amendment numbered 2, printed in part A of H. Rept. 107–450 that requires a report on options for achieving, prior to 2012, a level of from 1,700 to 2,200 operationally deployed nuclear warheads as outlined in the Nuclear Posture Review; Pages H2338–39

Spratt amendment numbered 5, printed in part A of H. Rept. 107–450, as amended by Hunter substitute amendment numbered 6, printed in part A of H. Rept. 107–450 that allocates additional funding of $65 million for 24 additional PAC–3 missiles and additional funding of $70 million for the Israeili Arrow Ballistic Missile System program to be derived from amounts available to the Missile Defense Agency; Pages H2349–52

Goode amendment numbered 8, printed in part A of H. Rept. 107–450, that authorizes the assignment of military personnel to assist the INS and Customs Service at the request of the Attorney General or the Secretary of the Treasury (agreed to by a recorded vote of 232 ayes to 183 noes, Roll No. 154); (See next issue.)

Paul amendment numbered 9, printed in part A of H. Rept. 107–450, that expresses the sense of Congress that no funds should be used to cooperate with or support the International Criminal Court (agreed to by a recorded vote of 264 ayes to 152 noes, Roll No. 155); (See next issue.)

Bereuter amendment numbered 10 printed in Part B of H. Rept. 107–450 that authorizes funding for the National Guard to participate in qualifying athletic or small arms competitions (agreed to by a recorded vote of 412 ayes to 2 noes, Roll No. 156); and (See next issue.)

Smith of New Jersey amendment numbered 21 printed in Part B of H. Rept. 107–450 that establishes the Department of Defense-Department of Veterans Affairs Health Resources Sharing and Performance Improvement act to share and coordinate resources. (See next issue.)

Rejected:

Markey amendment numbered 3, printed in part A of H. Rept. 107–450 that sought to prohibit the research and development of a nuclear earth penetrator weapon (rejected by a recorded vote of 172 ayes to 243 noes, Roll No. 141); Pages H2339–43

Tierney amendment numbered 4, printed in part A of H. Rept. 107–450 that sought to prohibit any funding for a space-based national missile defense program (rejected by a recorded vote of 159 ayes to 253 noes, Roll No. 145); and Pages H2344–49

Sanchez amendment numbered 7, printed in part A of H. Rept. 107–450 that sought to permit abortions at overseas military hospitals (rejected by a recorded vote of 202 ayes to 215 noes, Roll No. 153). Pages H2353 (continued next issue)

Rejected the Roemer motion to strike all after the enacting clause by voice vote. (See next issue.)

Rejected the Taylor of Mississippi motions to rise by a recorded vote of 51 ayes to 356 noes, Roll No. 138, by a recorded vote of 49 ayes to 352 noes, Roll No. 139, by a recorded vote of 51 ayes to 360 noes,

Roll No. 140, by a recorded vote of 46 ayes to 356 noes, Roll No. 143, by a recorded vote of 48 ayes to 356 noes, Roll No. 144, by a recorded vote of 55 ayes to 336 noes with 1 voting ''present'', Roll No. 146, by a recorded vote of 55 ayes to 339 noes, Roll No. 147, by a recorded vote of 58 ayes to 325 noes with 1 voting ''present,'' Roll No. 148, by a recorded vote of 75 ayes to 319 noes with 1 voting ''present,'' Roll No. 149, by a recorded vote of 83 ayes to 312 noes, Roll No. 150, by a recorded vote of 154 ayes to 249 noes, Roll No. 151, and by a recorded vote of 168 ayes to 241 noes, Roll No. 152. **Pages H2334, H2337, H2342, H2342–43, H2344–45, H2348, H2350–51, H2352–53 (continued next issue)**

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill. **(See next issue.)**

The House agreed to H. Res. 415, the rule that provided for consideration of the bill by a recorded vote of 216 ayes to 200 noes, Roll No. 136. Agreed to order the previous question by a yea-and-nay vote of 215 yeas to 202 nays, Roll No. 135.

Pages H2245–48, H2249–64

Meeting Hour—Tuesday, May 14: Agreed that when the House adjourns on Friday, May 10, it adjourn to meet at 12:30 p.m. on Tuesday, May 14 for morning hour debate. **(See next issue.)**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, May 15. **(See next issue.)**

Senate Messages: Message received from the Senate today appears on page H2245.

Quorum Calls Votes: Two yea-and-nay votes and twenty-three recorded votes developed during the proceedings of the House today and appear on pages H2249, H2263–64, H2264, H2264–65, H2334, H2337, H2342, H2342–43, H2343, H2345, H2348, H2348–49, H2350–51, H2352–53 (continued next issue). There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 1:50 a.m. on Friday, May 10.

Committee Meetings

SUPPLEMENTAL APPROPRIATIONS

Committee on Appropriations: Began markup of the supplemental appropriations for fiscal year 2002.

Will continue on May 14.

LABOR, HHS, AND EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education continued appropriation hearings. Testimony was heard from public witnesses.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection approved for full Committee action, as amended, H.R. 2037, Protection of Lawful Commerce in Arms Act.

RECOVERING DICTATORS' PLUNDER

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing on Recovering Dictators' Plunder. Testimony was heard from public witnesses.

OVERSIGHT—OFFICE OF WORKERS' COMPENSATION MANAGEMENT PRACTICES

Committee on Government Reform: Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations held a hearing on ''Oversight of the Management Practices of the Office of Workers' Compensation: Are the Complaints Justified?'' Testimony was heard from the following officials of the GAO: George Stalcup, Director, Strategic Issues; and Bernard Unger, Director, Physical Infrastructure; the following officials of the Department of Labor: Shelby Hallmark, Director, Workers' Compensation Program; and Gordon S. Heddell, Inspector General; and the following officials of the U.S. Postal Service: Ronald E. Henderson, Manager, Health and Resource Management; and Karla W. Corcoran, Inspector General.

CONSTITUTIONAL AMENDMENT—PROTECTING RIGHTS OF CRIME VICTIMS

Committee on the Judiciary: Subcommittee on the Constitution held a hearing on H.J. Res. 91, proposing an amendment to the Constitution of the United States to protect the rights of crime victims. Testimony was heard from public witnesses

MISCELLANEOUS MEASURES

Committee on the Judiciary: Subcommittee on Crime, Terrorism, and Homeland Security approved for full Committee action the following bills: H.R. 4623, amended, Child Obscenity and Pornography Prevention Act of 2002; and H.R. 4477, Sex Tourism Prohibition Improvement Act of 2002.

Prior to this action, the Subcommittee held a hearing on these measures. Testimony was heard Daniel P. Collins, Associate Deputy Attorney General, Department of Justice.

FEDERAL BUDGET ESTIMATING—ASSESSING ACCURACY

Committee on Rules: Subcommittee on Legislation and Budget Process continued hearings on ''Assessing the Accuracy of Federal Budget Estimating,'' Part II.

Testimony was heard from Representatives Cox, Stenholm, Matsui and Ryan of Wisconsin; Daniel L. Crippen, Director, CBO; and R. Glenn Hubbard, Chairman, Council of Economic Advisors.

TECHNOLOGY TALENT ACT; NSF REAUTHORIZATION

Committee on Science: Subcommittee on Research approved for full Committee action, as amended, the following bills: H.R. 3130, Technology Talent Act of 2001; and H.R. 4664, National Science Foundation Reauthorization Act of 2002.

Prior to this action, the Subcommittee held a hearing on H.R. 4664, National Science Foundation Reauthorization Act of 2002. Testimony was heard from public witnesses.

NASA'S SCIENCE PRIORITIES

Committee on Science: Subcommittee on Space and Aeronautics held a hearing on NASA's Science Priorities. Testimony was heard from the following officials of NASA: Edward Weiler, Associate Administrator, Space Science; Ghassem Asrar, Associate Administrator, Earth Science; and Mary Kicza, Associate Administrator, Biological and Physical Research.

VETERANS' LEGISLATION

Committee on Veterans' Affairs: Ordered reported, as amended, the following bills: H.R. 4015, Jobs for Veterans Act; H.R. 4085, Veterans' and Survivors' Benefits Expansion Act of 2002; H.R. 4514, Veterans Major Medical Facilities Construction Act of 2002; H.R. 3253, Department of Veterans Affairs Emergency Preparedness Research, Education, and Bio-Terrorism Prevention Act of 2002, and H.R. 4608, to name the Department of Veterans Affairs medical center in Wichita, Kansas, as the "Robert J. Dole Department of Veterans Affairs Medical Center."

EXTRATERRITORIAL INCOME REGIME

Committee on Ways and Means: Subcommittee on Select Revenue Measures continued hearings on the Extraterritorial Income (ETI) Regime. Testimony was heard from public witnesses.

Joint Meetings

WAR ON TERRORISM

Commission on Security and Cooperation in Europe (Helsinki Commission): On Wednesday, May 8, Commission concluded hearings to examine efforts of the Organization for Security and Cooperation in Europe (OSCE) to coordinate counter-terrorism activities among its participating States and the level to which these States are fulfilling their commitments to cooperate in this endeavor, as well as diplomatic and financial dimensions of the war and the role of the European Union, after receiving testimony from James Gurule, Under Secretary of the Treasury for Enforcement; Mark F. Wong, Principal Deputy Coordinator for Counter-Terrorism, Department of State; Portuguese Foreign Minister Antonio Martins da Cruz, Chairman-in-Office, OSCE, Lisbon; and Javier Ruperez, Ambassador of Spain to the United States, Madrid.

RUSSIAN-CHECHEN WAR

Commission on Security and Cooperation in Europe (Helsinki Commission): Commission concluded hearings to examine developments in the conflict in Chechnya, after receiving testimony from Steven Pifer, Deputy Assistant Secretary of State for European and Eurasian Affairs; Andrei Babitsky, Radio Liberty, Prague, Czechoslovakia Republic; Anatol Lieven, Carnegie Endowment for International Peace, Washington, D.C.; and Aset Chadaeva, New York, New York.

COMMITTEE MEETINGS FOR FRIDAY, MAY 10, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Indian Affairs: to hold hearings on proposed legislation authorizing funds for the implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 10 a.m., SR–485.

House

Committee on Government Reform, Subcommittee on Technology and Procurement, hearing on "Intellectual Property and Government R&D for Homeland Security," 10 a.m., 2154 Rayburn.

Next Meeting of the SENATE

10 a.m., Friday, May 10

Senate Chamber

Program for Friday: After the transaction of any morning business (not to extend beyond 11 a.m.), Senate will continue consideration of H.R. 3009, Andean Trade Preference Expansion Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Friday, May 10

House Chamber

Program for Friday: Pro forma session.

(House proceedings for today will be continued in the next issue of the Record.)

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