

pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

"(g) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(B) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(3) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred."

(2) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting "except as provided in section 16 with respect to class actions," after "Territorial courts,"; and

(B) by striking "No case" and inserting "Except as provided in section 16(c), no case".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(1) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

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

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) PRESERVATION OF CERTAIN ACTIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(5) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

"(6) DEFINITIONS.—For purposes of this subsection the following definitions shall apply:

"(A) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(B) CLASS ACTION.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members

of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(D) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred."

SEC. 4. APPLICABILITY.

The amendments made by this Act shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

MOTION OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BLILEY moves to strike all after the enacting clause of the Senate bill, S. 1260, and insert in lieu thereof the text of H.R. 1689, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1689) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 6, HIGHER EDUCATION AMENDMENTS OF 1998

Mr. GOODLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none and, without objection, appoints the following conferees:

For consideration of the House bill (except section 464), and the Senate amendment (except sections 484 and 799C), and modifications committed to conference: Messrs. GOODLING, McKEON, PETRI, GRAHAM, SOUDER, PETERSON of PENNSYLVANIA, CLAY, KILDEE, MARTINEZ, and ANDREWS.

For consideration of section 464 of the House bill, and sections 484 and 799C of the Senate amendment, and modifications committed to conference: Messrs. GOODLING, TALENT, SHAW, CAMP, CLAY and LEVIN.

There was no objection.

**APPOINTMENT OF CONFEREES ON
H.R. 3616, NATIONAL DEFENSE
AUTHORIZATION ACT FOR FIS-
CAL YEAR 1999**

Mr. SPENCE. Mr. Speaker, pursuant to clause 1 of rule XX, and by direction of the Committee on National Security, I move to take from the Speaker's table the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 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, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. SPENCE).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. SKELTON moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 3616 be instructed to insist upon the authorization levels provided in title II of the House bill for Theater Missile Defense programs and for space-based lasers.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. SKELTON) and the gentleman from South Carolina (Mr. SPENCE) each will control 30 minutes.

The Chair recognizes the gentleman from Missouri (Mr. SKELTON).

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

Mr. Speaker, this motion is about the priority we accord our troops rather than the special interests. The House passed bill gives priority to protecting the troops from theater ballistic missile attacks while the Senate version, on the other hand, would gut theater missile defense to pay for resumption of futuristic Star Wars experiments. The House bill, Mr. Speaker, got it right. Our bill got it right.

Mr. Speaker, the Senate bill would increase the administration's request for space-based lasers by \$94 million, a 100 percent increase. The Senate bill would also reduce the administration's request for theater missile defense by a net of \$203.9 million, resulting in a 40 percent reduction of the highest priority theater missile defense program.

Correctly, the House bill would do neither. For that we owe a debt of gratitude to the gentleman from South Carolina (Mr. SPENCE), chairman of the full Committee on National Security, and to the gentleman from Pennsylvania (Mr. WELDON), chairman of the Subcommittee on Military Research and Development, for their leadership

in this important area. I thank them, and I know the rest of the committee joins me in doing so.

The proposed Senate increase would begin to put weapons in space by starting a multibillion dollar 8-year program to demonstrate a space-based chemical laser capability for the national missile defense system. It is premature because, as a Nation, we have not made the policy decision to put weapons in space, nor have we decided that a chemical laser is preferred over solid state or other lasers.

And, perhaps most important, we have already rejected the near \$30 billion price tag such a space-based laser national missile defense system would entail. Worse, the chemical laser to be demonstrated is not slated to be part of any actual space-based laser national missile defense system we might one day choose to develop.

Moreover, the theater missile defense decreases proposed by the Senate would unnecessarily slow development of our lead theater missile defense program, the Army's Theater High Altitude Air Defense System. THAAD, what it is known as, is our highest priority missile defense effort and is being developed to counter the theater missile threat currently facing our troops overseas and our friends and our allies.

Let me point out, Mr. Speaker, that during the Gulf War the highest fatalities we had were as a result of a theater missile, and we must do something to protect the troops in that regard.

The program has suffered some setbacks, but we must recover from those setbacks as quickly as possible. There are no reasonable alternatives. The proposed \$323.9 million cut to the THAAD system would gut our ability to restructure the program and put it on a more sound technical footing and it would add further delay. Frankly, Mr. Speaker, this is just unacceptable.

The House position is correct. Taken together, the recommendations in the Senate bill would have us walk away from our first missile defense responsibility, countering the theater ballistic missile threat already facing our troops and friends and allies today, in favor of a futuristic space-based laser experimentation to benefit special interests. It makes no sense.

For several years now we have had consensus on the priority to be accorded theater missile defenses between the legislative and executive branches, Republicans and Democrats and liberals and conservatives. Mr. Speaker, nothing has changed.

The House-passed bill got it right, got it correct, and correctly prioritizes protecting the troops from theater ballistic missile attack over futuristic space-based laser experiments.

I sincerely urge my colleagues to keep our troops in mind. We know what the past has held for them on the front lines in combat, and it is up to us to do our very best to protect them, to protect the troops. Stick by the House position.

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

Mr. Speaker, while I do not agree with all of my colleague's statements, I am in complete agreement with him that this Nation needs to do everything in its power to protect American troops deployed around the world. In fact, when it comes to theater missile defenses, I was one of a number of Members who felt compelled to take the highly unusual step back in 1996 of suing the Clinton Administration for consciously ignoring the law that established timetables and provided increased funding in order to ensure the fielding of theater missile defense systems to protect our troops.

Likewise, many Members who serve on the Committee on National Security have helped to lead the fight over the past several years to prevent the administration from implementing arms control agreements with the Russians that would slow down or "dumb down" and otherwise limit the capabilities of this country's theater missile defense capabilities.

The single largest loss of life during the Gulf War was the result of a ballistic missile attack, and here we are, 7 years later, without a deployed theater missile defense. I would hope we could move past finger pointing, lawsuits and unsound arms control agreements and get on with the business of fielding systems to defend our troops against ballistic missiles. In this regard, I look forward to continuing to work with my colleague from Missouri to compel this and future administrations to deploy theater missile defenses.

While the Cold War has been officially over for almost a decade, serious threats to this Nation have not disappeared. As the recent report of the bipartisan Rumsfeld Commission indicated, the long-range ballistic missile threat to this country is not 15 years down the road. In fact, the threat is here today, it will only get worse, and we may not have any warning of the threat until it is too late. The time, effort and resources many nations and rogue actors are investing to develop or acquire weapons of mass destruction is truly frightening.

I believe the Rumsfeld Commission report is one more nail in the coffin of the argument made by some that our Nation does not, should not or will not need to build a system to defend the American people against ballistic missile attack. The threat is real and it is imminent. So the question is not whether to build such a system, only when and how.

In that regard, I agree with the concerns of the gentleman from Missouri (Mr. SKELTON). I do not claim to know what the proper technological answer or combination of answers to the question of how best to defend the American people against ballistic missiles. If part of the answer is to deploy space-based weapons, whether kinetic or directed energy, then the Nation should not hesitate. Space-based weapons may