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S. 1438

# One Hundred Seventh Congress of the United States of America

## AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and one*

# An Act

To authorize appropriations for fiscal year 2002 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.

*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 "National Defense Authorization Act for Fiscal Year 2002".

**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.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

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**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

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## Subtitle A—Authorization of Appropriations

**SEC. 101. ARMY.**

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Army as follows:

(1) For aircraft, $2,075,372,000.

(2) For missiles, $1,086,954,000.

(3) For weapons and tracked combat vehicles, $2,348,145,000.

(4) For ammunition, $1,187,233,000.

(5) For other procurement, $4,044,080,000.

**SEC. 102. NAVY AND MARINE CORPS.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Navy as follows:

(1) For aircraft, $8,323,147,000.

(2) For weapons, including missiles and torpedoes, $1,484,321,000.

(3) For shipbuilding and conversion, $9,370,972,000.

(4) For other procurement, $4,282,471,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Marine Corps in the amount of $1,014,637,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement of ammunition for the Navy and the Marine Corps in the amount of $466,907,000.

**SEC. 103. AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Air Force as follows:

(1) For aircraft, $10,789,167,000.

(2) For missiles, $3,222,636,000.

(3) For ammunition, $881,844,000.

(4) For other procurement, $8,196,021,000.

**SEC. 104. DEFENSE-WIDE ACTIVITIES.**

Funds are hereby authorized to be appropriated for fiscal year 2002 for Defense-wide procurement in the amount of $2,279,482,000.

**SEC. 105. DEFENSE INSPECTOR GENERAL.**

Funds are hereby authorized to be appropriated for fiscal year 2002 for procurement for the Inspector General of the Department of Defense in the amount of $2,800,000.

**SEC. 106. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.**

There is hereby authorized to be appropriated for fiscal year 2002 for the Department of Defense for Chemical Agents and Munitions Destruction, Defense, the amount of $1,153,557,000 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 PROGRAM.**

Funds are hereby authorized to be appropriated for fiscal year 2002 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 $267,915,000.

## Subtitle B—Army Programs

**SEC. 111. REPEAL OF LIMITATIONS ON BUNKER DEFEAT MUNITIONS PROGRAM.**

Section 116 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2682) is repealed.

**SEC. 112. EXTENSION OF PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES.**

Section 141(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 4543 note) is amended—

(1) by striking "through 2001" and inserting "through 2002"; and

(2) by inserting before the period at the end the following: ", except that during fiscal year 2002 the Secretary may only use articles manufactured at, and services provided by, not more than one Army industrial facility".

**SEC. 113. LIMITATIONS ON ACQUISITION OF INTERIM ARMORED VEHICLES AND DEPLOYMENT OF INTERIM BRIGADE COMBAT TEAMS.**

Section 113 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–23) is amended—

(1) by redesignating subsection (f) as subsection (j); and

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

"(f) WAIVER OF COMPARISON REQUIREMENT.—The Secretary of Defense may waive subsections (c) and (e)(1) and submit to the congressional defense committees a certification under subsection (e)(2) without regard to the requirement in that subsection for the completion of a comparison of costs and operational effectiveness if the Secretary includes in the submittal a certification of each of the following:

"(1) That the results of executed tests and existing analyses are sufficient for making a meaningful comparison of the costs and operational effectiveness of the interim armored vehicles referred to in subparagraph (A) of subsection (c)(1) and the medium armored vehicles referred to in subparagraph (B) of such subsection.

"(2) That the conduct of a comparative evaluation of those vehicles in a realistic field environment would provide no significant additional data relevant to that comparison.

"(3) That the Secretary has evaluated the existing data on cost and operational effectiveness of those vehicles and, taking that data into consideration, approves the obligation of funds for the acquisition of additional interim armored vehicles.

"(4) That sufficient resources will be requested in the future-years defense program to fully fund the Army's requirements for interim brigade combat teams.

"(5) That the force structure resulting from the establishment of the interim brigade combat teams and the subsequent achievement of operational capability by those teams will not diminish the combat power of the Army.

"(g) EXPERIMENTATION PROGRAM.—The Secretary of the Army shall develop and provide resources for an experimentation program that will—

"(1) provide information as to the design of the objective force; and

"(2) include a formal linkage of the interim brigade combat teams to that experimentation.

"(h) OPERATIONAL EVALUATION.—(1) The Secretary of the Army shall conduct an operational evaluation of the initial interim brigade combat team. The evaluation shall include deployment of the team to the evaluation site and team execution of combat missions across the full spectrum of potential threats and operational scenarios.

"(2) The operational evaluation under paragraph (1) may not be conducted until the plan for such evaluation is approved by the Director of Operational Test and Evaluation of the Department of Defense.

"(i) LIMITATION ON PROCUREMENT OF INTERIM ARMORED VEHICLES AND DEPLOYMENT OF IBCTS.—(1) The actions described in paragraph (2) may not be taken until the date that is 30 days after the date on which the Secretary of Defense—

"(A) submits to Congress a report on the operational evaluation carried out under subsection (h); and

"(B) certifies to Congress that the results of that operational evaluation indicate that the design for the interim brigade combat team is operationally effective and operationally suitable.

"(2) The limitation in paragraph (1) applies to the following actions:

"(A) Procurement of interim armored vehicles in addition to those necessary for equipping the first three interim brigade combat teams.

"(B) Deployment of any interim brigade combat team outside the United States.

"(3) The Secretary of Defense may waive the applicability of paragraph (1) to a deployment described in paragraph (2)(B) if the Secretary—

"(A) determines that the deployment is in the national security interests of the United States; and

"(B) submits to Congress, in writing, a notification of the waiver together with a discussion of the reasons for the waiver.".

# Subtitle C—Navy Programs

**SEC. 121. VIRGINIA CLASS SUBMARINE PROGRAM.**

Section 123(b)(1) 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–25) is amended—

(1) by striking "five Virginia class submarines" and inserting "seven Virginia class submarines"; and

(2) by striking "2006" and inserting "2007".

**SEC. 122. MULTIYEAR PROCUREMENT AUTHORITY FOR F/A–18E/F AIRCRAFT ENGINES.**

(a) MULTIYEAR AUTHORITY.—Beginning with the 2002 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the procurement of engines for F/A–18E/F aircraft.

(b) REQUIRED CERTIFICATIONS.—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.

(c) CONGRESSIONAL NOTICE-AND-WAIT PERIOD.—Upon transmission to Congress of a certification referred to in subsection (b) 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.

**SEC. 123. V–22 OSPREY AIRCRAFT PROGRAM.**

The production rate for V–22 Osprey aircraft may not be increased above the minimum sustaining production rate for which funds are authorized to be appropriated by this Act until the Secretary of Defense certifies to Congress that successful operational testing of the aircraft demonstrates that—

(1) the solutions to the problems regarding the reliability of hydraulic system components and flight control software that were identified by the panel appointed by the Secretary of Defense on January 5, 2001, to review the V–22 aircraft program are adequate to achieve low risk for crews and passengers aboard V–22 aircraft that are operating under operational conditions;

(2) the V–22 aircraft can achieve reliability and maintainability levels that are sufficient for the aircraft to achieve operational availability at the level required for fleet aircraft;

(3) the V–22 aircraft will be operationally effective—

(A) when employed in operations with other V–22 aircraft; and

(B) when employed in operations with other types of aircraft; and

(4) the V–22 aircraft can be operated effectively, taking into consideration the downwash effects inherent in the operation of the aircraft, when the aircraft—

(A) is operated in remote areas with unimproved terrain and facilities;

(B) is deploying and recovering personnel—

(i) while hovering within the zone of ground effect; and

(ii) while hovering outside the zone of ground effect; and

(C) is operated with external loads.

**SEC. 124. REPORT ON STATUS OF V–22 OSPREY AIRCRAFT BEFORE RESUMPTION OF FLIGHT TESTING.**

Not later than 30 days before the resumption of flight testing of the V–22 Osprey aircraft, the Secretary of Defense shall submit to Congress a report containing the following:

(1) A comprehensive description of the status of the hydraulics system and flight control software of the V–22 Osprey aircraft, including—

(A) a description and analysis of any deficiencies in the hydraulics system and flight control software of the V–22 Osprey aircraft; and

(B) a description and assessment of the actions taken to redress each such deficiency.

(2) A description of the current actions, and any proposed actions, of the Department of Defense to implement the recommendations of the panel appointed by the Secretary of Defense on January 5, 2001, to review the V–22 aircraft program.

(3) An assessment of the recommendations of the National Aeronautics and Space Administration on tiltrotor aeromechanics provided in a briefing to the Undersecretary of Defense for Acquisition, Logistics, and Technology on August 14, 2001.

(4) Notice of the waiver, if any, of any item capability or any other requirement specified in the Joint Operational Requirements Document for the V–22 Osprey aircraft, including a justification of each such waiver.

## Subtitle D—Air Force Programs

**SEC. 131. MULTIYEAR PROCUREMENT AUTHORITY FOR C–17 AIRCRAFT.**

(a) MULTIYEAR AUTHORITY.—Beginning with the 2002 program year, the Secretary of the Air Force may enter into a multiyear contract for the procurement of up to 60 C–17 aircraft. Such a contract shall be entered into in accordance with section 2306b of title 10, United States Code, except that, notwithstanding subsection (k) of such section, such a contract may be for a period of six program years.

(b) REQUIRED CERTIFICATIONS.—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.

(c) CONGRESSIONAL NOTICE-AND-WAIT PERIOD.—Upon transmission to Congress of a certification referred to in subsection (b) 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.

# TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

### Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic and applied research.
Sec. 203. Supplemental authorization of appropriations for fiscal year 2001 for research, development, test, and evaluation, Defense-wide.

### Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Naval surface fire support assessment.
Sec. 212. Collaborative program for development of advanced radar systems.
Sec. 213. Repeal of limitations on total cost of engineering and manufacturing development for F–22 aircraft program.
Sec. 214. Joint biological defense program.
Sec. 215. Cooperative Department of Defense-Department of Veterans Affairs medical research program.
Sec. 216. C–5 aircraft reliability enhancement and reengining program.

**Subtitle C—Ballistic Missile Defense**

Sec. 231. Transfer of responsibility for procurement for missile defense programs from Ballistic Missile Defense Organization to military departments.
Sec. 232. Program elements for Ballistic Missile Defense Organization.
Sec. 233. Support of ballistic missile defense activities of the Department of Defense by the national defense laboratories of the Department of Energy.
Sec. 234. Missile defense testing initiative.
Sec. 235. Construction of test bed facilities for missile defense system.

**Subtitle D—Air Force Science and Technology for the 21st Century**

Sec. 251. Short title.
Sec. 252. Science and technology investment and development planning.
Sec. 253. Study and report on effectiveness of Air Force science and technology program changes.

**Subtitle E—Other Matters**

Sec. 261. Establishment of unmanned aerial vehicle joint operational test bed system.
Sec. 262. Demonstration project to increase small business and university participation in Office of Naval Research efforts to extend benefits of science and technology research to fleet.
Sec. 263. Communication of safety concerns from operational test and evaluation officials to program managers.

# Subtitle A—Authorization of Appropriations

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2002 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $6,675,325,000.

(2) For the Navy, $10,784,264,000.

(3) For the Air Force, $14,407,187,000.

(4) For Defense-wide activities, $14,593,995,000, of which $221,355,000 is authorized for the Director of Operational Test and Evaluation.

**SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.**

(a) FISCAL YEAR 2002.—Of the amounts authorized to be appropriated by section 201, $5,070,605,000 shall be available for basic research and applied research projects.

(b) BASIC RESEARCH AND APPLIED RESEARCH DEFINED.—For purposes of this section, the term "basic research and applied research" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

**SEC. 203. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2001 FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.**

In addition to the funds authorized to be appropriated under section 201(4) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–32), there is hereby authorized to be appropriated $1,000,000 for fiscal year 2001 for the use of the Department of Defense for research, development, test, and evaluation, for Defense-wide activities.

# Subtitle B—Program Requirements, Restrictions, and Limitations

**SEC. 211. NAVAL SURFACE FIRE SUPPORT ASSESSMENT.**

(a) ASSESSMENT REQUIRED.—The Secretary of Defense shall carry out an assessment of the requirements for naval surface fire support of ground forces operating in the littoral environment, including the role of an advanced fire support missile system for Navy combatant vessels. The matters assessed shall include the Secretary of the Navy's program plan, schedule, and funding for meeting such requirements.

(b) REPORT.—Not later than March 31, 2002, the Secretary of Defense shall submit to the congressional defense committees a report containing the results of the assessment required by subsection (a).

**SEC. 212. COLLABORATIVE PROGRAM FOR DEVELOPMENT OF ADVANCED RADAR SYSTEMS.**

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to develop and demonstrate advanced technologies and concepts leading to advanced radar systems for naval and other applications.

(b) DESCRIPTION OF PROGRAM.—The program under subsection (a) shall be carried out collaboratively by the Director of Defense Research and Engineering, the Secretary of the Navy, the Director of the Defense Advanced Research Projects Agency, and other appropriate elements of the Department of Defense. The program shall include the following activities:

(1) Activities needed for development and maturation of the technologies for advanced electronics materials to extend the range and sensitivity of radars.

(2) Identification of acquisition systems for use of the new technology.

(c) REPORT.—Not later than March 31, 2002, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report on the implementation of the program under subsection (a). The report shall include the following:

(1) A description of the management plan for the program and any agreements relating to that plan.

(2) A schedule for the program.

(3) Identification of the funding required for fiscal year 2003 and for the future-years defense program to carry out the program.

(4) A list of program capability goals and objectives.

**SEC. 213. REPEAL OF LIMITATIONS ON TOTAL COST OF ENGINEERING AND MANUFACTURING DEVELOPMENT FOR F–22 AIRCRAFT PROGRAM.**

(a) REPEAL.—The following provisions of law are repealed:

(1) Section 217(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1660).

(2) Section 8125 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 702).

(3) Section 219(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–38).

(b) CONFORMING AMENDMENTS.—(1) Section 217 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1660), as amended by subsection (a)(1), is further amended—

(A) in subsection (c)—

(i) by striking "limitations set forth in subsections (a) and (b)" and inserting "limitation set forth in subsection (b)"; and

(ii) by striking paragraph (3); and

(B) in subsection (d)(2), by striking subparagraphs (D) and (E).

(2) Section 131 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 536) is amended—

(A) in subsection (a)(2), by striking "That the" and all that follows through "respectively," and inserting "That the production phase for that program can be executed within the limitation on total cost applicable to that program under subsection (b)"; and

(B) in subsection (b)(3), by striking "for the remainder of the engineering and manufacturing development phase and".

**SEC. 214. JOINT BIOLOGICAL DEFENSE PROGRAM.**

Section 217(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–36) is amended by striking "funds authorized to be appropriated by this Act may not" and inserting "no funds authorized to be appropriated to the Department of Defense for fiscal year 2002 may".

**SEC. 215. COOPERATIVE DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS MEDICAL RESEARCH PROGRAM.**

Of the funds authorized to be appropriated by section 201(4), $2,500,000 shall be available for the cooperative Department of Defense/Department of Veterans Affairs medical research program. The Secretary of Defense shall transfer such amount to the Secretary of Veterans Affairs for such purpose not later than 30 days after the date of the enactment of this Act.

**SEC. 216. C–5 AIRCRAFT RELIABILITY ENHANCEMENT AND REENGINING PROGRAM.**

(a) KIT DEVELOPMENT.—The Secretary of the Air Force shall ensure that engineering manufacturing and development under the C–5 aircraft reliability enhancement and reengining program includes kit development for at least one C–5A aircraft.

(b) AIRCRAFT TO BE USED FOR KIT DEVELOPMENT.—The C–5A aircraft to be used for purposes of the kit development under subsection (a) shall be an aircraft from among the 74 C–5A aircraft of the Air Force.

# Subtitle C—Ballistic Missile Defense

**SEC. 231. TRANSFER OF RESPONSIBILITY FOR PROCUREMENT FOR MISSILE DEFENSE PROGRAMS FROM BALLISTIC MISSILE DEFENSE ORGANIZATION TO MILITARY DEPARTMENTS.**

(a) BUDGETING OF MISSILE DEFENSE PROCUREMENT AUTHORITY.—Section 224 of title 10, United States Code is amended—

(1) in subsection (a), by striking "procurement" both places it appears and inserting "research, development, test, and evaluation"; and

(2) by striking subsections (b) and (c) and inserting the following:

"(b) TRANSFER CRITERIA.—(1) The Secretary of Defense shall establish criteria for the transfer of responsibility for a ballistic missile defense program from the Director of the Ballistic Missile Defense Organization to the Secretary of a military department. The criteria established for such a transfer shall, at a minimum, address the following:

"(A) The technical maturity of the program.

"(B) The availability of facilities for production.

"(C) The commitment of the Secretary of the military department concerned to procurement funding for that program, as shown by funding through the future-years defense program and other defense planning documents.

"(2) The Secretary shall submit the criteria established, and any modifications to those criteria, to the congressional defense committees.

"(c) NOTIFICATION OF TRANSFER.—Before responsibility for a ballistic missile defense program is transferred from the Director of the Ballistic Missile Defense Organization to the Secretary of a military department, the Secretary of Defense shall submit to the congressional defense committees notice in writing of the Secretary's intent to make that transfer. The Secretary shall include with such notice a certification that the program has met the criteria established under subsection (b) for such a transfer. The transfer may then be carried out after the end of the 60-day period beginning on the date of such notice.

"(d) CONFORMING BUDGET AND PLANNING TRANSFERS.—When a ballistic missile defense program is transferred from the Ballistic Missile Defense Organization to the Secretary of a military department in accordance with this section, the Secretary of Defense shall ensure that all appropriate conforming changes are made to proposed or projected funding allocations in the future-years defense program under section 221 of this title and other Department of Defense program, budget, and planning documents.

"(e) FOLLOW-ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The Secretary of Defense shall ensure that, before a ballistic missile defense program is transferred from the Director of the Ballistic Missile Defense Organization to the Secretary of a military department, roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly defined.

"(f) CONGRESSIONAL DEFENSE COMMITTEES.—In this section, the term 'congressional defense committees' means the following:

"(1) The Committee on Armed Services and the Committee on Appropriations of the Senate.

"(2) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives.".

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

**"§ 224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation"**.

(2) The item relating to that section in the table of sections at the beginning of chapter 9 of such title is amended to read as follows:

"224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation.".

**SEC. 232. PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION.**

(a) REVISION IN PROGRAM ELEMENTS.—Subsection (a) of section 223 of title 10, United States Code, is amended—

(1) by striking "in accordance with the following program elements:" and inserting "in accordance with program elements governing functional areas as follows:"; and

(2) by striking paragraphs (1) through (12) and inserting the following:

"(1) Technology.

"(2) Ballistic Missile Defense System.

"(3) Terminal Defense Segment.

"(4) Midcourse Defense Segment.

"(5) Boost Defense Segment.

"(6) Sensors Segment.".

(b) ADDITIONAL REQUIREMENTS.—Subsection (b) of such section is amended to read as follows:

"(b) SEPARATE PROGRAM ELEMENTS FOR PROGRAMS ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT.—(1) The Secretary of Defense shall ensure that each ballistic missile defense program that enters engineering and manufacturing development is assigned a separate, dedicated program element.

"(2) In this subsection, the term 'engineering and manufacturing development' means the development phase whose primary objectives are to—

"(A) translate the most promising design approach into a stable, interoperable, producible, supportable, and cost-effective design;

"(B) validate the manufacturing or production process; and

"(C) demonstrate system capabilities through testing.".

(c) REQUIREMENT FOR ANNUAL PROGRAM GOALS.—(1) The Secretary of Defense shall each year establish cost, schedule, testing, and performance goals for the ballistic missile defense programs of the Department of Defense for the period covered by the future-years defense program that is submitted to Congress that year under section 221 of title 10, United States Code. Not later than February 1 each year, the Secretary shall submit to the congressional defense committees a statement of the goals so established.

(2) The statement of goals submitted under paragraph (1) for any year after 2002 shall be an update of the statement submitted under that paragraph for the preceding year.

(3) Each statement of goals submitted under paragraph (1) shall set forth cost, schedule, testing, and performance goals that pertain to each functional area program element identified in subsection (a), and each program element identified in subsection (b), of section 223 of title 10, United States Code.

(d) ANNUAL PROGRAM PLAN.—(1) With the submission of the statement of goals under subsection (c) for any year, the Secretary

of Defense shall submit to the congressional defense committees a program of activities planned to be carried out for each missile defense program that enters engineering and manufacturing development (as defined in section 223(b)(2) of title 10, United States Code, as added by subsection (b)).

(2) Each program plan under paragraph (1) shall include the following:

(A) A funding profile that includes an estimate of—

(i) the total expenditures to be made in the fiscal year in which the plan is submitted and the following fiscal year, together with the estimated total life-cycle costs of the program; and

(ii) a display of such expenditures (shown for significant procurement, construction, and research and development) for the fiscal year in which the plan is submitted and the following fiscal year.

(B) A program schedule for the fiscal year in which the plan is submitted and the following fiscal year for each of the following:

(i) Significant procurement.

(ii) Construction.

(iii) Research and development.

(iv) Flight tests.

(v) Other significant testing activities.

(3) Information specified in paragraph (2) need not be included in the plan for any year under paragraph (1) to the extent such information has already been provided, or will be provided in the current fiscal year, in annual budget justification documents of the Department of Defense submitted to Congress or in other required reports to Congress.

(e) INTERNAL DOD REVIEWS.—(1) The officials and elements of the Department of Defense specified in paragraph (2) shall on an ongoing basis—

(A) review the development of goals under subsection (c) and the annual program plan under subsection (d); and

(B) provide to the Secretary of Defense and the Director of the Ballistic Missile Defense Organization any comments on such matters as considered appropriate.

(2) Paragraph (1) applies with respect to the following:

(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(B) The Director of Operational Test and Evaluation.

(C) The Director of Program Analysis and Evaluation.

(D) The Joint Requirements Oversight Council.

(E) The Cost Analysis and Improvement Group.

(f) DEMONSTRATION OF CRITICAL TECHNOLOGIES.—(1) The Director of the Ballistic Missile Defense Organization shall develop a plan for ensuring that each critical technology for a missile defense program is successfully demonstrated in an appropriate environment before that technology enters into operational service as part of a missile defense program.

(2) The Director of Operational Test and Evaluation of the Department of Defense shall monitor the development of the plan under paragraph (1) and shall submit to the Director of the Ballistic Missile Defense Organization any comments regarding that plan that the Director of Operational Test and Evaluation considers appropriate.

(g) COMPTROLLER GENERAL ASSESSMENT.—(1) At the conclusion of each of fiscal years 2002 and 2003, the Comptroller General of the United States shall assess the extent to which the Ballistic Missile Defense Organization achieved the goals established under subsection (c) for such fiscal year.

(2) Not later than February 15, 2003, and February 15, 2004, the Comptroller General shall submit to the congressional defense committees a report on the Comptroller General's assessment under paragraph (1) with respect to the preceding fiscal year.

(h) ANNUAL OT&E ASSESSMENT OF TEST PROGRAM.—(1) The Director of Operational Test and Evaluation shall each year assess the adequacy and sufficiency of the Ballistic Missile Defense Organization test program during the preceding fiscal year.

(2) Not later than February 15 each year the Director shall submit to the congressional defense committees a report on the assessment under paragraph (1) with respect to the preceding fiscal year.

**SEC. 233. SUPPORT OF BALLISTIC MISSILE DEFENSE ACTIVITIES OF THE DEPARTMENT OF DEFENSE BY THE NATIONAL DEFENSE LABORATORIES OF THE DEPARTMENT OF ENERGY.**

(a) FUNDS TO CARRY OUT CERTAIN BALLISTIC MISSILE DEFENSE ACTIVITIES.—Of the amounts authorized to be appropriated to the Department of Defense pursuant to section 201(4), $25,000,000 shall be available, subject to subsection (b) and at the discretion of the Director of the Ballistic Missile Defense Organization, for research, development, and demonstration activities at the national laboratories of the Department of Energy in support of the missions of the Ballistic Missile Defense Organization, including the following activities:

(1) Technology development, concept demonstration, and integrated testing to enhance performance, reduce risk, and improve reliability in hit-to-kill interceptors for ballistic missile defense.

(2) Support for science and engineering teams to assess critical technical problems and prudent alternative approaches as agreed upon by the Director of the Ballistic Missile Defense Organization and the Administrator for Nuclear Security.

(b) REQUIREMENT FOR MATCHING FUNDS FROM NNSA.—Funds shall be available as provided in subsection (a) only if the Administrator for Nuclear Security makes available matching funds for the activities referred to in subsection (a).

(c) MEMORANDUM OF UNDERSTANDING.—The activities referred to in subsection (a) shall be carried out under the memorandum of understanding entered into by the Secretary of Energy and the Secretary of Defense for the use of national laboratories for ballistic missile defense programs, as required by section 3131 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034) and modified pursuant to section 3132 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–455) to provide for jointly funded projects.

**SEC. 234. MISSILE DEFENSE TESTING INITIATIVE.**

(a) TESTING INFRASTRUCTURE.—(1) The Secretary of Defense shall ensure that each annual budget request of the Department of Defense—

(A) is designed to provide for comprehensive testing of ballistic missile defense programs during early stages of development; and

(B) includes necessary funding to support and improve test infrastructure and provide adequate test assets for the testing of such programs.

(2) The Secretary shall ensure that ballistic missile defense programs incorporate, to the greatest possible extent, operationally realistic test configurations (referred to as "test bed" configurations) to demonstrate system performance across a broad range of capability and, during final stages of operational testing, to demonstrate reliable performance.

(3) The Secretary shall ensure that the test infrastructure for ballistic missile defense programs is capable of supporting continued testing of ballistic missile defense systems after deployment.

(b) REQUIREMENTS FOR EARLY STAGES OF SYSTEM DEVELOPMENT.—In order to demonstrate acceptable risk and developmental stability, the Secretary of Defense shall ensure that any ballistic missile defense program incorporates, to the maximum extent practicable, the following elements during the early stages of system development:

(1) Pursuit of parallel conceptual approaches and technological paths for all critical problematic components until effective and reliable solutions can be demonstrated.

(2) Comprehensive ground testing in conjunction with flight-testing for key elements of the proposed system that are considered to present high risk, with such ground testing to make use of existing facilities and combinations of facilities that support testing at the highest possible levels of integration.

(3) Where appropriate, expenditures to enhance the capabilities of existing test facilities, or to construct new test facilities, to support alternative complementary test methodologies.

(4) Sufficient funding of test instrumentation to ensure accurate measurement of all critical test events.

(5) Incorporation into the program of sufficient schedule flexibility and expendable test assets, including missile interceptors and targets, to ensure that failed or aborted tests can be repeated in a prudent, but expeditious manner.

(6) Incorporation into flight-test planning for the program, where possible, of—

(A) methods that make the most cost-effective use of test opportunities;

(B) events to demonstrate engagement of multiple targets, "shoot-look-shoot", and other planned operational concepts; and

(C) exploitation of opportunities to facilitate early development and demonstration of "family of systems" concepts.

(c) SPECIFIC REQUIREMENTS FOR GROUND-BASED MID-COURSE INTERCEPTOR SYSTEMS.—For ground-based mid-course interceptor systems, the Secretary of Defense shall initiate steps during fiscal year 2002 to establish a flight-test capability of launching not less than three missile defense interceptors and not less than two ballistic missile targets to provide a realistic test infrastructure.

**SEC. 235. CONSTRUCTION OF TEST BED FACILITIES FOR MISSILE DEFENSE SYSTEM.**

(a) AUTHORITY TO ACQUIRE OR CONSTRUCT FACILITIES.—(1) The Secretary of Defense, using funds appropriated to the Department of Defense for research, development, test, and evaluation for fiscal years after fiscal year 2001 that are available for programs of the Ballistic Missile Defense Organization, may carry out all construction projects, or portions of construction projects, including projects for the acquisition, improvement, or construction of facilities, necessary to establish and operate the Missile Defense System Test Bed.

(2) The authority provided in subsection (a) may be used to acquire, improve, or construct facilities at a total cost not to exceed $500,000,000.

(b) AUTHORITY TO PROVIDE ASSISTANCE TO LOCAL COMMUNITIES.—(1) Subject to paragraph (2), the Secretary of Defense, using funds appropriated to the Department of Defense for research, development, test, and evaluation for fiscal year 2002 that are available for programs of the Ballistic Missile Defense Organization, may provide assistance to local communities to meet the need for increased municipal or community services or facilities resulting from the construction, installation, or operation of the Missile Defense System Test Bed Facilities. Such assistance may be provided by grant or otherwise.

(2) Assistance may be provided to a community under paragraph (1) only if the Secretary of Defense determines that there is an immediate and substantial increase in the need for municipal or community services or facilities as a direct result of the construction, installation, or operation of the Missile Defense System Test Bed Facilities.

# Subtitle D—Air Force Science and Technology for the 21st Century

**SEC. 251. SHORT TITLE.**

This subtitle may be cited as the "Air Force Science and Technology for the 21st Century Act".

**SEC. 252. SCIENCE AND TECHNOLOGY INVESTMENT AND DEVELOPMENT PLANNING.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Air Force should carry out each of the following:

(1) Continue and improve efforts to ensure that—

(A) the Air Force science and technology community is represented, and the recommendations of that community are considered, at all levels of program planning and budgetary decisionmaking within the Air Force;

(B) advocacy for science and technology development is institutionalized across all levels of Air Force management in a manner that is not dependent on individuals; and

(C) the value of Air Force science and technology development is made increasingly apparent to the warfighters, by linking the needs of those warfighters with decisions on science and technology development.

(2) Complete and adopt a policy directive that provides for changes in how the Air Force makes budgetary and nonbudgetary decisions with respect to its science and technology development programs and how it carries out those programs.

(3) At least once every five years, conduct a review of the long-term challenges and short-term objectives of the Air Force science and technology programs that is consistent with the review specified in section 252 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–46).

(4) Ensure that development and science and technology planning and investment activities are carried out for future space warfighting systems and for future nonspace warfighting systems in an integrated manner.

(5) Elevate the position within the Office of the Secretary of the Air Force that has primary responsibility for budget and policy decisions for science and technology programs.

(b) REINSTATEMENT OF DEVELOPMENT PLANNING.—(1) The Secretary of the Air Force shall reinstate and implement a revised development planning process that provides for each of the following:

(A) Coordinating the needs of Air Force warfighters with decisions on science and technology development.

(B) Giving input into the establishment of priorities among science and technology programs.

(C) Analyzing Air Force capability options for the allocation of Air Force resources.

(D) Developing concepts for technology, warfighting systems, and operations with which the Air Force can achieve its critical future goals.

(E) Evaluating concepts for systems and operations that leverage technology across Air Force organizational boundaries.

(F) Ensuring that a "system-of-systems" approach is used in carrying out the various Air Force capability planning exercises.

(G) Utilizing existing analysis capabilities within the Air Force product centers in a collaborative and integrated manner.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a report on the implementation of the planning process required by paragraph (1). The report shall include the annual amount that the Secretary considers necessary to carry out paragraph (1).

**SEC. 253. STUDY AND REPORT ON EFFECTIVENESS OF AIR FORCE SCIENCE AND TECHNOLOGY PROGRAM CHANGES.**

(a) REQUIREMENT.—The Secretary of the Air Force, in cooperation with the National Research Council of the National Academy of Sciences, shall carry out a study to determine how the changes to the Air Force science and technology program implemented during the past two years affect the future capabilities of the Air Force.

(b) MATTERS STUDIED.—(1) The study shall review and assess whether such changes as a whole are sufficient to ensure the following:

(A) That the concerns about the management of the science and technology program that have been raised by Congress,

the Defense Science Board, the Air Force Science Advisory Board, and the Air Force Association have been adequately addressed.

(B) That appropriate and sufficient technology is available to ensure the military superiority of the United States and counter future high-risk threats.

(C) That the science and technology investments are balanced to meet the near-, mid-, and long-term needs of the Air Force.

(D) That technologies are made available that can be used to respond flexibly and quickly to a wide range of future threats.

(E) That the Air Force organizational structure provides for a sufficiently senior level advocate of science and technology to ensure an ongoing, effective presence of the science and technology community during the budget and planning process.

(2) In addition, the study shall assess the specific changes to the Air Force science and technology program as follows:

(A) Whether the biannual science and technology summits provide sufficient visibility into, and understanding and appreciation of, the value of the science and technology program to the senior level of Air Force budget and policy decision-makers.

(B) Whether the applied technology councils are effective in contributing the input of all levels beneath the senior leadership into the coordination, focus, and content of the science and technology program.

(C) Whether the designation of the commander of the Air Force Materiel Command as the science and technology budget advocate is effective to ensure that an adequate Air Force science and technology budget is requested.

(D) Whether the revised development planning process is effective to aid in the coordination of the needs of the Air Force warfighters with decisions on science and technology investments and the establishment of priorities among different science and technology programs.

(E) Whether the implementation of section 252 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–46) is effective to identify the basis for the appropriate science and technology program funding level and investment portfolio.

(c) REPORT.—Not later than May 1, 2003, the Secretary of the Air Force shall submit to Congress the results of the study.

# Subtitle E—Other Matters

### SEC. 261. ESTABLISHMENT OF UNMANNED AERIAL VEHICLE JOINT OPERATIONAL TEST BED SYSTEM.

(a) ESTABLISHMENT OF TEST BED SYSTEM.—The commander of the United States Joint Forces Command shall establish a government flight activity capability (referred to as a "test bed") within the facilities and resources of that command to evaluate and ensure joint interoperability of unmanned aerial vehicle systems. That capability shall be independent of the military departments and shall be managed directly by the Joint Forces Command.

(b) PRIORITY FOR USE OF PREDATOR ASSETS.—The Secretary of the Navy shall ensure that the commander of the United States Joint Forces Command controls the priority for use of the two Predator unmanned aerial vehicles currently undergoing operational testing by the Navy, together with associated payloads and antennas and the associated tactical control system (TCS) ground station.

(c) USE BY JOINT FORCES COMMAND.—The items specified to in subsection (b) may be used by the commander of the United States Joint Forces Command only through the independent joint operational test bed system established pursuant to subsection (a) for testing of those items, including further development of the associated tactical control system (TCS) ground station, other aspects of unmanned aerial vehicle interoperability, and participation in such experiments and exercises as the commander considers appropriate to the mission of that command.

**SEC. 262. DEMONSTRATION PROJECT TO INCREASE SMALL BUSINESS AND UNIVERSITY PARTICIPATION IN OFFICE OF NAVAL RESEARCH EFFORTS TO EXTEND BENEFITS OF SCIENCE AND TECHNOLOGY RESEARCH TO FLEET.**

(a) PROJECT REQUIRED.—The Secretary of the Navy, acting through the Chief of Naval Research, shall carry out a demonstration project to increase access to Navy facilities of small businesses and universities that are engaged in science and technology research beneficial to the fleet.

(b) PROJECT ELEMENTS.—In carrying out the demonstration project, the Secretary shall—

(1) establish and operate a Navy Technology Extension Center at a location to be selected by the Secretary;

(2) permit participants in the Small Business Innovation Research Program (SBIR) and Small Business Technology Transfer Program (STTR) that are awarded contracts by the Office of Naval Research to access and use Navy Major Range Test Facilities Base (MRTFB) facilities selected by the Secretary for purposes of carrying out such contracts, and charge such participants for such access and use at the same established rates that Department of Defense customers are charged; and

(3) permit universities, institutions of higher learning, and federally funded research and development centers collaborating with participants referred to in paragraph (2) to access and use such facilities for such purposes, and charge such entities for such access and use at such rates.

(c) PERIOD OF PROJECT.—The demonstration project shall be carried out during the three-year period beginning on the date of the enactment of this Act.

(d) REPORT.—Not later than February 1, 2004, the Secretary shall submit to Congress a report on the demonstration project. The report shall include a description of the activities carried out under the demonstration project and any recommendations for the improvement or expansion of the demonstration project that the Secretary considers appropriate.

**SEC. 263. COMMUNICATION OF SAFETY CONCERNS FROM OPERATIONAL TEST AND EVALUATION OFFICIALS TO PROGRAM MANAGERS.**

Section 139 of title 10, United States Code, is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

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

"(f) The Director shall ensure that safety concerns developed during the operational test and evaluation of a weapon system under a major defense acquisition program are communicated in a timely manner to the program manager for that program for consideration in the acquisition decisionmaking process.".

# 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.
Sec. 304. Transfer from National Defense Stockpile Transaction Fund.
Sec. 305. Funds for renovation of Department of Veterans Affairs facilities adjacent to Naval Training Center, Great Lakes, Illinois.
Sec. 306. Defense Language Institute Foreign Language Center expanded Arabic language program.

### Subtitle B—Environmental Provisions

Sec. 311. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges).
Sec. 312. Establishment of new program element for remediation of unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 313. Assessment of environmental remediation of unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 314. Conformity of surety authority under environmental restoration program with surety authority under CERCLA.
Sec. 315. Elimination of annual report on contractor reimbursement for costs of environmental response actions.
Sec. 316. Pilot program for sale of air pollution emission reduction incentives.
Sec. 317. Department of Defense energy efficiency program.
Sec. 318. Procurement of alternative fueled and hybrid light duty trucks.
Sec. 319. Reimbursement of Environmental Protection Agency for certain response costs in connection with Hooper Sands Site, South Berwick, Maine.
Sec. 320. River mitigation studies.

### Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 331. Commissary benefits for new members of the Ready Reserve.
Sec. 332. Reimbursement for use of commissary facilities by military departments for purposes other than commissary sales.
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### Subtitle D—Workforce and Depot Issues

Sec. 341. Revision of authority to waive limitation on performance of depot-level maintenance.
Sec. 342. Exclusion of certain expenditures from limitation on private sector performance of depot-level maintenance.
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Sec. 344. Revision of deadline for annual report on commercial and industrial activities.
Sec. 345. Pilot manpower reporting system in Department of the Army.
Sec. 346. Development of Army workload and performance system and Wholesale Logistics Modernization Program.

**Subtitle E—Defense Dependents Education**

Sec. 351. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 352. Impact aid for children with severe disabilities.
Sec. 353. Availability of auxiliary services of defense dependents' education system for dependents who are home school students.
Sec. 354. Comptroller General study of adequacy of compensation provided for teachers in the Department of Defense overseas dependents' schools.

**Subtitle F—Other Matters**

Sec. 361. Availability of excess defense personal property to support Department of Veterans Affairs initiative to assist homeless veterans.
Sec. 362. Incremental implementation of Navy-Marine Corps Intranet contract.
Sec. 363. Comptroller General study and report of National Guard Distributive Training Technology Project.
Sec. 364. Reauthorization of warranty claims recovery pilot program.
Sec. 365. Evaluation of current demonstration programs to improve quality of personal property shipments of members.
Sec. 366. Sense of Congress regarding security to be provided at 2002 Winter Olympic Games.

# Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2002 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, $20,653,241,000.
(2) For the Navy, $26,461,299,000.
(3) For the Marine Corps, $2,872,524,000.
(4) For the Air Force, $25,598,767,000.
(5) For Defense-wide activities, $11,949,586,000.
(6) For the Army Reserve, $1,824,146,000.
(7) For the Naval Reserve, $1,000,050,000.
(8) For the Marine Corps Reserve, $142,853,000.
(9) For the Air Force Reserve, $2,029,866,000.
(10) For the Army National Guard, $3,696,559,000.
(11) For the Air National Guard, $3,967,361,000.
(12) For the Defense Inspector General, $149,221,000.
(13) For the United States Court of Appeals for the Armed Forces, $9,096,000.
(14) For Environmental Restoration, Army, $389,800,000.
(15) For Environmental Restoration, Navy, $257,517,000.
(16) For Environmental Restoration, Air Force, $385,437,000.
(17) For Environmental Restoration, Defense-wide, $23,492,000.
(18) For Environmental Restoration, Formerly Used Defense Sites, $230,255,000.
(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $49,700,000.
(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $820,381,000.
(21) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $40,000,000.
(22) For Defense Health Program, $17,570,750,000.

(23) For Cooperative Threat Reduction programs, $403,000,000.

(24) For Overseas Contingency Operations Transfer Fund, $2,844,226,000.

(25) For Support for International Sporting Competitions, Defense, $15,800,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $125,000,000, which represents savings resulting from reduced energy costs.

**SEC. 302. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2002 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, $1,656,396,000.

(2) For the National Defense Sealift Fund, $407,708,000.

**SEC. 303. ARMED FORCES RETIREMENT HOME.**

(a) AMOUNT FOR FISCAL YEAR 2002.—There is hereby authorized to be appropriated for fiscal year 2002 from the Armed Forces Retirement Home Trust Fund the sum of $71,440,000 for the operation of the Armed Forces Retirement Home.

(b) AVAILABILITY OF AMOUNTS PREVIOUSLY APPROPRIATED.—Of amounts appropriated from the Armed Forces Retirement Home Trust Fund for fiscal year 2002 (and previous fiscal years to the extent such amounts remain unobligated), $22,400,000 shall be available, subject to the review and approval of the Secretary of Defense, for the development and construction of a blended use, multicare facility at the Naval Home and for the acquisition of a parcel of real property adjacent to the Naval Home consisting of approximately 15 acres.

**SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.**

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 2002 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

**SEC. 305. FUNDS FOR RENOVATION OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES ADJACENT TO NAVAL TRAINING CENTER, GREAT LAKES, ILLINOIS.**

(a) AVAILABILITY OF FUNDS FOR RENOVATION.—Subject to subsection (b), of the amount authorized to be appropriated by section 301(a)(2) for operation and maintenance for the Navy, the Secretary of the Navy may make available to the Secretary of Veterans Affairs up to $2,000,000 for relocation of Department of Veterans Affairs activities and associated renovation of existing facilities at the North Chicago Department of Veterans Affairs Medical Center, Illinois.

(b) LIMITATION.—The Secretary of the Navy may make funds available under subsection (a) only after the Secretary of the Navy and the Secretary of Veterans Affairs enter into an appropriate agreement for the use by the Secretary of the Navy of approximately 48 acres of real property at the North Chicago Department of Veterans Affairs property referred to in subsection (a) for expansion of the Naval Training Center, Great Lakes, Illinois.

**SEC. 306. DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER EXPANDED ARABIC LANGUAGE PROGRAM.**

Of the amount authorized to be appropriated by section 301(a)(1) for operation and maintenance for the Army, $650,000 may be available for the Defense Language Institute Foreign Language Center for an expanded Arabic language program.

# Subtitle B—Environmental Provisions

**SEC. 311. INVENTORY OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS AT DEFENSE SITES (OTHER THAN OPERATIONAL RANGES).**

(a) INVENTORY REQUIRED.—(1) Chapter 160 of title 10, United States Code, is amended by adding at the end the following new section:

## "§ 2710. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges)

"(a) INVENTORY REQUIRED.—(1) The Secretary of Defense shall develop and maintain an inventory of defense sites that are known or suspected to contain unexploded ordnance, discarded military munitions, or munitions constituents.

"(2) The information in the inventory for each defense site shall include, at a minimum, the following:

"(A) A unique identifier for the defense site.

"(B) An appropriate record showing the location, boundaries, and extent of the defense site, including identification of the State and political subdivisions of the State in which the defense site is located and any Tribal lands encompassed by the defense site.

"(C) Known persons and entities, other than a military department, with any current ownership interest or control of lands encompassed by the defense site.

"(D) Any restrictions or other land use controls currently in place at the defense site that might affect the potential

for public and environmental exposure to the unexploded ordnance, discarded military munitions, or munitions constituents.

"(b) SITE PRIORITIZATION.—(1) The Secretary shall develop, in consultation with representatives of the States and Indian Tribes, a proposed protocol for assigning to each defense site a relative priority for response activities related to unexploded ordnance, discarded military munitions, and munitions constituents based on the overall conditions at the defense site. After public notice and comment on the proposed protocol, the Secretary shall issue a final protocol and shall apply the protocol to defense sites listed on the inventory. The level of response priority assigned the site shall be included with the information required by subsection (a)(2).

"(2) In assigning the response priority for a defense site on the inventory, the Secretary shall primarily consider factors relating to safety and environmental hazard potential, such as the following:

"(A) Whether there are known, versus suspected, unexploded ordnance, discarded military munitions, or munitions constituents on all or any portion of the defense site and the types of unexploded ordnance, discarded military munitions, or munitions constituents present or suspected to be present.

"(B) Whether public access to the defense site is controlled, and the effectiveness of these controls.

"(C) The potential for direct human contact with unexploded ordnance, discarded military munitions, or munitions constituents at the defense site and evidence of people entering the site.

"(D) Whether a response action has been or is being undertaken at the defense site under the Formerly Used Defense Sites program or other program.

"(E) The planned or mandated dates for transfer of the defense site from military control.

"(F) The extent of any documented incidents involving unexploded ordnance, discarded military munitions, or munitions constituents at or from the defense site, including incidents involving explosions, discoveries, injuries, reports, and investigations.

"(G) The potential for drinking water contamination or the release of munitions constituents into the air.

"(H) The potential for destruction of sensitive ecosystems and damage to natural resources.

"(3) The priority assigned to a defense site included on the inventory shall not impair, alter, or diminish any applicable Federal or State authority to establish requirements for the investigation of, and response to, environmental problems at the defense site.

"(c) UPDATES AND AVAILABILITY.—(1) The Secretary shall annually update the inventory and site prioritization list to reflect new information that becomes available. The inventory shall be available in published and electronic form.

"(2) The Secretary shall work with communities adjacent to a defense site to provide information concerning conditions at the site and response activities. At a minimum, the Secretary shall provide the site inventory information and site prioritization list to appropriate Federal, State, tribal, and local officials, and, to the extent the Secretary considers appropriate, to civil defense or emergency management agencies and the public.

"(d) EXCEPTIONS.—This section does not apply to the following:

"(1) Any locations outside the United States.

"(2) The presence of military munitions resulting from combat operations.

"(3) Operating storage and manufacturing facilities.

"(4) Operational ranges.

"(e) DEFINITIONS.—In this section:

"(1) The term 'defense site' applies to locations that are or were owned by, leased to, or otherwise possessed or used by the Department of Defense. The term does not include any operational range, operating storage or manufacturing facility, or facility that is used for or was permitted for the treatment or disposal of military munitions.

"(2) The term 'discarded military munitions' means military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of, consistent with applicable environmental laws and regulations.

"(3)(A) The term 'military munitions' means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard. The term includes confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof.

"(B) The term does not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components, except that the term does include nonnuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed.

"(4) The term 'munitions constituents' means any materials originating from unexploded ordnance, discarded military munitions, or other military munitions, including explosive and nonexplosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions.

"(5) The term 'operational range' means a military range that is used for range activities, or a military range that is not currently being used, but that is still considered by the Secretary to be a range area, is under the jurisdiction, custody, or control of the Department of Defense, and has not been put to a new use that is incompatible with range activities.

"(6) The term 'possessions' includes Johnston Atoll, Kingman Reef, Midway Island, Nassau Island, Palmyra Island, and Wake Island.

"(7) The term 'Secretary' means the Secretary of Defense.

"(8) The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions.

"(9) The term 'unexploded ordnance' means military munitions that—

"(A) have been primed, fused, armed, or otherwise prepared for action;

"(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and

"(C) remain unexploded either by malfunction, design, or any other cause.

"(10) The term 'United States', in a geographic sense, means the States, territories, and possessions and associated navigable waters, contiguous zones, and ocean waters of which the natural resources are under the exclusive management authority of the United States.".

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

"2710. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges).".

(b) INITIAL INVENTORY.—The requirements of section 2710 of title 10, United States Code, as added by subsection (a), shall be implemented as follows:

(1) The initial inventory required by subsection (a) of such section shall be completed not later than May 31, 2003.

(2) The proposed prioritization protocol required by subsection (b) of such section shall be available for public comment not later than November 30, 2002.

**SEC. 312. ESTABLISHMENT OF NEW PROGRAM ELEMENT FOR REMEDIATION OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS.**

Section 2703 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

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

"(b) PROGRAM ELEMENTS FOR ORDNANCE REMEDIATION.—The Secretary of Defense shall establish a program element for remediation of unexploded ordnance, discarded military munitions, and munitions constituents within each environmental restoration account established under subsection (a). The terms 'unexploded ordnance', 'discarded military munitions', and 'munitions constituents' have the meanings given such terms in section 2710 of this title.".

**SEC. 313. ASSESSMENT OF ENVIRONMENTAL REMEDIATION OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS.**

(a) INCLUSION IN 2003 REPORT ON ENVIRONMENTAL RESTORATION ACTIVITIES.—The Secretary of Defense shall include in the report submitted to Congress under section 2706(a) of title 10, United States Code, in 2003 a comprehensive assessment of unexploded ordnance, discarded military munitions, and munitions

constituents located at current and former facilities of the Department of Defense. The assessment shall include, at a minimum, the following:

(1) Separate estimates of the aggregate projected costs of the remediation of unexploded ordnance, discarded military munitions, and munitions constituents at—

(A) all operational ranges; and

(B) all other defense sites.

(2) A comprehensive plan for addressing the remediation of unexploded ordinance, discarded military munitions, and munitions constituents at defense sites, including an assessment of the funding required and the period of time over which such funding will be required.

(3) An assessment of the technology currently available for the remediation of unexploded ordnance, discarded military munitions, and munitions constituents.

(4) An assessment of the impact of improved technology on the cost of such remediation and a plan for the development and use of such improved technology.

(b) REQUIREMENTS FOR COST ESTIMATES.—(1) The estimates of aggregate projected costs required by subsection (a)(1) shall—

(A) be stated as a range of aggregate projected costs, including a low estimate and a high estimate;

(B) set forth the differing assumptions underlying each such low estimate and high estimate, including—

(i) any public uses for the operational ranges and other defense sites concerned that will be available after the remediation is completed;

(ii) the extent of the remediation required to make the operational ranges and other defense sites concerned available for such uses; and

(iii) the technologies to be applied to achieve such level of remediation; and

(C) include, and identify separately, an estimate of the aggregate projected costs of the remediation of any ground water contamination that may be caused by unexploded ordnance, discarded military munitions, or munitions constituents at the operational ranges and other defense sites concerned.

(2) The high estimate of the aggregate projected costs shall be based on the assumption that all unexploded ordnance, discarded military munitions, and munitions constituents at each operational range and other defense site will be addressed, regardless of whether there are any current plans to close the range or site or discontinue training at the range or site.

(3) The estimate of the aggregate projected costs of remediation of ground water contamination under paragraph (1)(C) shall be based on a comprehensive assessment of the risk of such contamination and of the actions required to protect the ground water supplies concerned.

(4) The standards for the report of liabilities of the Department of Defense shall not apply to the cost estimates required by subsection (a)(1).

(c) INTERIM ASSESSMENT.—The report submitted to Congress under section 2706(a) of title 10, United States Code, in 2002 shall include the assessment required by subsection (a) to the extent that the information required to be provided as part of

the assessment is available. The Secretary shall include an explanation of any limitations on the information available or qualifications on the information provided.

(d) DEFINITIONS.—In this section, the terms "unexploded ordnance", "discarded military munitions", "munitions constituents", "operational range", and "defense site" have the meanings given such terms in section 2710 of title 10, United States Code, as added by section 311.

**SEC. 314. CONFORMITY OF SURETY AUTHORITY UNDER ENVIRONMENTAL RESTORATION PROGRAM WITH SURETY AUTHORITY UNDER CERCLA.**

Section 2701(j)(1) of title 10, United States Code, is amended by striking ", or after December 31, 1999".

**SEC. 315. ELIMINATION OF ANNUAL REPORT ON CONTRACTOR REIMBURSEMENT FOR COSTS OF ENVIRONMENTAL RESPONSE ACTIONS.**

(a) REPORT ELIMINATION.—Section 2706 of title 10, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) CONFORMING AMENDMENTS.—Subsection (d) of such section, as redesignated by subsection (a) of this section, is amended—

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

(2) by redesignating paragraphs (2), (4), and (5) as paragraphs (1), (2), and (3), respectively.

**SEC. 316. PILOT PROGRAM FOR SALE OF AIR POLLUTION EMISSION REDUCTION INCENTIVES.**

(a) EXTENSION.—Section 351(a)(2) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2701 note) is amended by striking "September 30, 2001" and inserting "September 30, 2003".

(b) REPORT REQUIRED.—(1) The Secretary of Defense shall prepare a report concerning the operation of the pilot program for the sale of economic incentives for the reduction of emission of air pollutants attributable to military facilities, as authorized by section 351 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2701 note). The report shall—

(A) detail all transactions that have been completed under the pilot program, the dollar amount of each transaction, and the number and type of air pollutants involved in each transaction;

(B) evaluate the extent to which retention of the proceeds of sales under the pilot program, as required by subsection (c) of such section, has provided incentives for such sales;

(C) evaluate the extent of any loss to the United States Treasury associated with the pilot program; and

(D) evaluate the environmental impact of the pilot program.

(2) Not later than March 1, 2003, the Secretary shall submit the report required by paragraph (1) to the Committee on Energy and Commerce and the Committee on Armed Services of the House of Representatives and the Committee on Environment and Public Works and the Committee on Armed Services of the Senate.

**SEC. 317. DEPARTMENT OF DEFENSE ENERGY EFFICIENCY PROGRAM.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should work to implement fuel efficiency reforms that allow for investment decisions based on the true cost of delivered fuel, strengthen the linkage between warfighting capability and fuel logistics requirements, provide high-level leadership encouraging fuel efficiency, target fuel efficiency improvements through science and technology investment, and include fuel efficiency in requirements and acquisition processes.

(b) ENERGY EFFICIENCY PROGRAM.—The Secretary shall carry out a program to significantly improve the energy efficiency of facilities of the Department of Defense through 2010. The Secretary shall designate a senior official of the Department of Defense to be responsible for managing the program for the Department and a senior official of each military department to be responsible for managing the program for such department.

(c) ENERGY EFFICIENCY GOALS.—The goal of the energy efficiency program shall be to achieve reductions in energy consumption by facilities of the Department of Defense as follows:

(1) In the case of industrial and laboratory facilities, reductions in the average energy consumption per square foot of such facilities, per unit of production or other applicable unit, relative to energy consumption in 1990—

(A) by 20 percent by 2005; and

(B) by 25 percent by 2010.

(2) In the case of other facilities, reductions in average energy consumption per gross square foot of such facilities, relative to energy consumption per gross square foot in 1985—

(A) by 30 percent by 2005; and

(B) by 35 percent by 2010.

(d) STRATEGIES FOR IMPROVING ENERGY EFFICIENCY.—In order to achieve the goals set forth in subsection (c), the Secretary shall, to the maximum extent practicable—

(1) purchase energy-efficient products, as so designated by the Environmental Protection Agency and the Department of Energy, and other products that are energy-efficient;

(2) utilize energy savings performance contracts, utility energy-efficiency service contracts, and other contracts designed to achieve energy conservation;

(3) use life-cycle cost analysis, including assessment of life-cycle energy costs, in making decisions about investments in products, services, construction, and other projects;

(4) conduct energy efficiency audits for approximately 10 percent of all Department of Defense facilities each year;

(5) explore opportunities for energy efficiency in industrial facilities for steam systems, boiler operation, air compressor systems, industrial processes, and fuel switching; and

(6) retire inefficient equipment on an accelerated basis where replacement results in lower life-cycle costs.

(e) REPORTING REQUIREMENTS.—Not later than January 1, 2002, and each January 1 thereafter through 2010, the Secretary shall submit to the congressional defense committees the report required to be prepared by the Secretary pursuant to section 303 of Executive Order 13123 (64 Fed. Reg. 30851; 42 U.S.C. 8251 note) regarding the progress made toward achieving the energy efficiency goals of the Department of Defense.

**SEC. 318. PROCUREMENT OF ALTERNATIVE FUELED AND HYBRID LIGHT DUTY TRUCKS.**

(a) DEFENSE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—(1) The Secretary of Defense shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by the Administrator for the Department of Defense fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) The Secretary, in consultation with the Administrator, may waive the policy regarding the procurement of hybrid vehicles in paragraph (1) to the extent that the Secretary determines necessary—

(A) in the case of trucks that are exempt from the requirements of section 303 of the Energy Policy Act of 1992 for national security reasons under subsection (b)(3)(E) of such section, to meet specific requirements of the Department of Defense for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government; or

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles.

(3) This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

(b) REQUIREMENT TO EXCEED REQUIREMENT IN ENERGY POLICY ACT OF 1992.—(1) The Secretary of Defense shall coordinate with the Administrator of General Services to ensure that, of the light duty trucks procured in fiscal years after fiscal year 2004 for the fleets of light duty vehicles of the Department of Defense to which section 303 of the Energy Policy Act of 1992 applies—

(A) five percent of the total number of such trucks that are procured in each of fiscal years 2005 and 2006 are alternative fueled vehicles or hybrid vehicles; and

(B) ten percent of the total number of such trucks that are procured in each fiscal year after fiscal year 2006 are alternative fueled vehicles or hybrid vehicles.

(2) Light duty trucks acquired for the Department of Defense that are counted to comply with section 303 of the Energy Policy Act of 1992 for a fiscal year shall be counted to determine the total number of light duty trucks procured for the Department of Defense for that fiscal year for the purposes of paragraph (1), but shall not be counted to satisfy the requirement in that paragraph.

(c) REPORT ON PLANS FOR IMPLEMENTATION.—At the same time that the President submits the budget for fiscal year 2003 to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to Congress a report summarizing the plans for carrying out subsections (a) and (b).

(d) DEFINITIONS.—In this section:

(1) The term "hybrid vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

(A) an internal combustion or heat engine using combustible fuel; and

(B) a rechargeable energy storage system.

(2) The term "alternative fueled vehicle" has the meaning given that term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

**SEC. 319. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN RESPONSE COSTS IN CONNECTION WITH HOOPER SANDS SITE, SOUTH BERWICK, MAINE.**

(a) AUTHORITY TO REIMBURSE.—Using amounts specified in subsection (c), the Secretary of the Navy may pay $1,005,478 to the Hooper Sands Special Account within the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986 to reimburse the Environmental Protection Agency for the response costs incurred by the Environmental Protection Agency for actions taken between May 12, 1992, and July 31, 2000, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) at the Hooper Sands site in South Berwick, Maine, in accordance with the interagency agreement entered into by the Department of the Navy and the Environmental Protection Agency in January 2001.

(b) TREATMENT OF REIMBURSEMENT.—Payment of the amount authorized by subsection (a) shall be in full satisfaction of amounts due from the Department of the Navy to the Environmental Protection Agency for the response costs described in that subsection.

(c) SOURCE OF FUNDS.—Payment under subsection (a) shall be made using amounts authorized to be appropriated by section 301(a)(15) to the Environmental Restoration Account, Navy, established by section 2703(a)(3) of title 10, United States Code.

**SEC. 320. RIVER MITIGATION STUDIES.**

(a) PORT OF ORANGE, SABINE RIVER.—The Secretary of Defense may conduct a study regarding protruding structures and submerged objects remaining from the World War II Navy ship building industry located at the former Navy installation in Orange, Texas, which create navigational hazards along the Sabine River and surrounding the Port of Orange.

(b) PHILADELPHIA NAVAL SHIPYARD, DELAWARE RIVER.—The Secretary of Defense may conduct a study regarding floating and partially submerged debris possibly relating to the Philadelphia Naval Shipyard in that portion of the Delaware River from Philadelphia, Pennsylvania, to the mouth of the river which create navigational hazards along the river.

(c) USE OF EXISTING INFORMATION.—In conducting a study authorized by this section, the Secretary of Defense shall take into account any information available from other studies conducted in connection with the same navigation channels.

(d) CONSULTATION.—The Secretary of Defense shall conduct the studies authorized by this section in consultation with appropriate State and local government entities and Federal agencies.

(e) REPORT ON STUDY RESULTS.—Not later than April 30, 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report that—

(1) summarizes the results of each study conducted under this section; and

(2) contains an evaluation by the Secretary of the extent to which the navigational hazards identified in each study are the result of Department of Defense activities.

(f) COST SHARING.—Nothing in this section is intended to require non-Federal cost sharing of the costs incurred by the Secretary of Defense to conduct a study authorized by this section.

(g) RELATION TO OTHER LAWS AND AGREEMENTS.—This section is not intended to modify any authorities provided to the Secretary of the Army by the Water Resources Development Act of 1986 (33 U.S.C. 2201 et seq.), nor is it intended to modify any non-Federal cost-sharing responsibilities outlined in any local cooperation agreements.

# Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

**SEC. 331. COMMISSARY BENEFITS FOR NEW MEMBERS OF THE READY RESERVE.**

(a) ELIGIBILITY.—Section 1063 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

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

"(b) ELIGIBILITY OF NEW MEMBERS.—(1) The Secretary concerned shall authorize a new member of the Ready Reserve to use commissary stores of the Department of Defense for a number of days accruing at the rate of two days for each month in which the member participates satisfactorily in training required under section 10147(a)(1) of this title or section 502(a) of title 32, as the case may be.

"(2) For the purposes of paragraph (1), a person shall be considered a new member of the Ready Reserve upon becoming a member and continuing without a break in the membership until the earlier of—

"(A) the date on which the member becomes eligible to use commissary stores under subsection (a); or

"(B) December 31 of the first calendar year in which the membership has been continuous for the entire year.

"(3) A new member may not be authorized under this subsection to use commissary stores for more than 24 days for any calendar year.".

(b) REQUIRED DOCUMENTATION.—Subsection (d) of such section, as redesignated by subsection (a)(1), is amended by adding at the end the following new sentence: "The regulations shall specify the required documentation of satisfactory participation in training for the purposes of subsection (b).".

(c) CONFORMING AMENDMENT.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by striking "Subsection (a)" and inserting "Subsections (a) and (b)".

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

**"§ 1063. Use of commissary stores: members of Ready Reserve".**

(2) Subsection (a) of such section is amended by striking "OF READY RESERVE" and inserting "WITH 50 OR MORE CREDITABLE POINTS".

(3) The item relating to such section in the table of sections at the beginning of chapter 54 of title 10, United States Code, is amended to read as follows:

"1063. Use of commissary stores: members of Ready Reserve.".

**SEC. 332. REIMBURSEMENT FOR USE OF COMMISSARY FACILITIES BY MILITARY DEPARTMENTS FOR PURPOSES OTHER THAN COMMISSARY SALES.**

(a) REQUIREMENT.—Chapter 147 of title 10, United States Code, is amended by inserting after section 2482a the following new section:

**"§ 2483. Commissary stores: reimbursement for use of commissary facilities by military departments**

"(a) PAYMENT REQUIRED.—The Secretary of a military department shall pay the Defense Commissary Agency the amount determined under subsection (b) for any use of a commissary facility by the military department for a purpose other than commissary sales or operations in support of commissary sales.

"(b) AMOUNT.—The amount payable under subsection (a) for use of a commissary facility by a military department shall be equal to the share of depreciation of the facility that is attributable to that use, as determined under regulations prescribed by the Secretary of Defense.

"(c) COVERED FACILITIES.—This section applies with respect to a commissary facility that is acquired, constructed, converted, expanded, installed, or otherwise improved (in whole or in part) with the proceeds of an adjustment or surcharge applied under section 2486(c) of this title.

"(d) CREDITING OF PAYMENTS.—The Director of the Defense Commissary Agency shall credit amounts paid under this section for use of a facility to an appropriate account to which proceeds of an adjustment or surcharge referred to in subsection (c) are credited.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2482a the following new item:

"2483. Commissary stores: reimbursement for use of commissary facilities by military departments.".

**SEC. 333. PUBLIC RELEASES OF COMMERCIALLY VALUABLE INFORMATION OF COMMISSARY STORES.**

(a) LIMITATIONS AND AUTHORITY.—Section 2487 of title 10, United States Code, is amended to read as follows:

**"§ 2487. Commissary stores: release of certain commercially valuable information to the public**

"(a) AUTHORITY TO LIMIT RELEASE.—(1) The Secretary of Defense may limit the release to the public of any information described in paragraph (2) if the Secretary determines that it is in the best interest of the Department of Defense to limit the release of such information. If the Secretary determines to limit the release of any such information, the Secretary may provide for limited release of such information in accordance with subsection (b).

"(2) Paragraph (1) applies to the following:

"(A) Information contained in the computerized business systems of commissary stores or the Defense Commissary

Agency that is collected through or in connection with the use of electronic scanners in commissary stores, including the following information:

"(i) Data relating to sales of goods or services.

"(ii) Demographic information on customers.

"(iii) Any other information pertaining to commissary transactions and operations.

"(B) Business programs, systems, and applications (including software) relating to commissary operations that were developed with funding derived from commissary surcharges.

"(b) RELEASE AUTHORITY.—(1) The Secretary of Defense may, using competitive procedures, enter into a contract to sell information described in subsection (a)(2).

"(2) The Secretary of Defense may release, without charge, information on an item sold in commissary stores to the manufacturer or producer of that item or an agent of the manufacturer or producer.

"(3) The Secretary of Defense may, by contract entered into with a business, grant to the business a license to use business programs referred to in subsection (a)(2)(B), including software used in or comprising any such program. The fee charged for the license shall be based on the costs of similar programs developed and marketed by businesses in the private sector, determined by means of surveys.

"(4) Each contract entered into under this subsection shall specify the amount to be paid for information released or a license granted under the contract, as the case may be.

"(c) FORM OF RELEASE.—Information described in subsection (a)(2) may not be released, under subsection (b) or otherwise, in a form that identifies any customer or that provides information making it possible to identify any customer.

"(d) RECEIPTS.—Amounts received by the Secretary under this section shall be credited to funds derived from commissary surcharges, shall be merged with those funds, and shall be available for the same purposes as the funds with which merged.

"(e) DEFINITION.—In this section, the term 'commissary surcharge' means any adjustment or surcharge applied under section 2486(c) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 147 of title 10, United States Code, is amended by striking the item relating to section 2487 and inserting the following new item:

"2487. Commissary stores: release of certain commercially valuable information to the public.".

**SEC. 334. REBATE AGREEMENTS WITH PRODUCERS OF FOODS PROVIDED UNDER SPECIAL SUPPLEMENTAL FOOD PROGRAM.**

Section 1060a of title 10, United States Code, is amended—

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

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

"(e) REBATE AGREEMENTS WITH FOOD PRODUCERS.—(1) In the administration of the program under this section, the Secretary of Defense may enter into a contract with a producer of a particular brand of food that provides for—

"(A) the Secretary of Defense to procure that particular brand of food, exclusive of other brands of the same or similar food, for the purpose of providing the food in commissary stores of the Department of Defense as a supplemental food under the program; and

"(B) the producer to rebate to the Secretary amounts equal to agreed portions of the amounts paid by the Secretary for the procurement of that particular brand of food for the program.

"(2) The Secretary of Defense shall use competitive procedures under chapter 137 of this title to enter into contracts under this subsection.

"(3) The period covered by a contract entered into under this subsection may not exceed one year. No such contract may be extended by a modification of the contract, by exercise of an option, or by any other means. Nothing in this paragraph prohibits a contractor under a contract entered into under this subsection for any year from submitting an offer for, and being awarded, a contract that is to be entered into under this subsection for a successive year.

"(4) Amounts rebated under a contract entered into under paragraph (1) shall be credited to the appropriation available for carrying out the program under this section in the fiscal year in which rebated, shall be merged with the other sums in that appropriation, and shall be available for the program for the same period as the other sums in the appropriation.".

**SEC. 335. CIVIL RECOVERY FOR NONAPPROPRIATED FUND INSTRUMENTALITY COSTS RELATED TO SHOPLIFTING.**

Section 3701(b)(1)(B) of title 31, United States Code, is amended by inserting before the comma at the end the following: ", including actual and administrative costs related to shoplifting, theft detection, and theft prevention".

# Subtitle D—Workforce and Depot Issues

**SEC. 341. REVISION OF AUTHORITY TO WAIVE LIMITATION ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.**

Section 2466 of title 10, United States Code, is amended—

(1) by striking subsection (c); and

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

"(b) WAIVER OF LIMITATION.—The Secretary of Defense may waive the limitation in subsection (a) for a fiscal year if—

"(1) the Secretary determines that the waiver is necessary for reasons of national security; and

"(2) the Secretary submits to Congress a notification of the waiver together with the reasons for the waiver.

"(c) PROHIBITION ON DELEGATION OF WAIVER AUTHORITY.—The authority to grant a waiver under subsection (b) may not be delegated.".

**SEC. 342. EXCLUSION OF CERTAIN EXPENDITURES FROM LIMITATION ON PRIVATE SECTOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.**

Section 2474 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

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

"(f) EXCLUSION OF CERTAIN EXPENDITURES FROM PERCENTAGE LIMITATION.—(1) Amounts expended out of funds described in paragraph (2) for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence shall not be counted for purposes of applying the percentage limitation in section 2466(a) of this title if the personnel are provided by private industry or other entities outside the Department of Defense pursuant to a public-private partnership.

"(2) The funds referred to in paragraph (1) are funds available to the military departments and Defense Agencies for depot-level maintenance and repair workloads for fiscal years 2002 through 2005.

"(3) All funds covered by paragraph (1) shall be included as a separate item in the reports required under paragraphs (1), (2), and (3) of section 2466(e) of this title.".

**SEC. 343. PROTECTIONS FOR PURCHASERS OF ARTICLES AND SERVICES MANUFACTURED OR PERFORMED BY WORKING-CAPITAL FUNDED INDUSTRIAL FACILITIES OF THE DEPARTMENT OF DEFENSE.**

(a) GENERAL RULE.—Section 2563(c) of title 10, United States Code, is amended—

(1) in paragraph (1)(B), by striking "in any case of willful misconduct or gross negligence" and inserting "as provided in paragraph (3)"; and

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

"(3) Paragraph (1)(B) does not apply in any case of willful misconduct or gross negligence or in the case of a claim by a purchaser of articles or services under this section that damages or injury arose from the failure of the Government to comply with quality, schedule, or cost performance requirements in the contract to provide the articles or services.".

(b) CONFORMING AMENDMENT.—Section 2474(e)(2)(B)(i) of such title is amended by striking "in a case of willful conduct or gross negligence" and inserting "under the circumstances described in section 2563(c)(3) of this title".

**SEC. 344. REVISION OF DEADLINE FOR ANNUAL REPORT ON COMMERCIAL AND INDUSTRIAL ACTIVITIES.**

Section 2461(g) of title 10, United States Code, is amended by striking "February 1" and inserting "June 30".

**SEC. 345. PILOT MANPOWER REPORTING SYSTEM IN DEPARTMENT OF THE ARMY.**

(a) ANNUAL REPORTING REQUIREMENT.—Not later than March 1 of each of the fiscal years 2002 through 2004, the Secretary of the Army shall submit to Congress a report describing the use during the previous fiscal year of non-Federal entities to provide services to the Department of the Army.

(b) CONTENT OF REPORT.—Using information available from existing data collection and reporting systems available to the Department of the Army and the non-Federal entities referred to in subsection (a), the report shall—

(1) specify the number of work year equivalents performed by individuals employed by non-Federal entities in providing services to the Department;

(2) categorize the information by Federal supply class or service code; and

(3) indicate the appropriation from which the services were funded and the major organizational element of the Department procuring the services.

(c) LIMITATION ON REQUIREMENT FOR NON-FEDERAL ENTITIES TO PROVIDE INFORMATION.—For the purposes of meeting the requirements set forth in subsection (b), the Secretary of the Army may not require the provision of information beyond the information that is currently provided to the Department of the Army by the non-Federal entities referred to in subsection (a), except for the number of work year equivalents associated with Department of the Army contracts, identified by contract number, to the extent this information is available to the contractor from existing data collection systems.

(d) REPEAL OF OBSOLETE REPORTING REQUIREMENT.—Section 343 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 569) is repealed.

**SEC. 346. DEVELOPMENT OF ARMY WORKLOAD AND PERFORMANCE SYSTEM AND WHOLESALE LOGISTICS MODERNIZATION PROGRAM.**

(a) RELATIONSHIP BETWEEN SYSTEMS.—(1) The Army Workload and Performance System, including all applications in the master plan submitted to Congress on June 8, 2001, and any revisions to the master plan, shall be developed in such a manner that its functionality and identity are in compliance with all statutory requirements. The Army Workload and Performance System shall continue as a standard Army-wide manpower system under the supervision and management of the Secretary of the Army.

(2) The requirement in paragraph (1) is intended to encourage the sharing of data between the Army Workload and Performance System and the Wholesale Logistics Modernization Program and the development of the processes necessary to permit or enhance such data sharing.

(b) ANNUAL PROGRESS REPORTS.—(1) Not later than February 1 of each year, the Secretary of the Army shall submit to Congress a progress report on the implementation of the master plan for the Army Workload and Performance System during the preceding year. The report shall specifically address any changes made to the master plan since the previous report.

(2) The reporting requirement shall terminate when the Secretary certifies to Congress that the Army Workload and Performance System is fully implemented.

(c) GAO EVALUATION.—Not later than 60 days after the Secretary of the Army submits to Congress a progress report under subsection (b), the Comptroller General shall submit to Congress an evaluation of the report.

(d) ARMY WORKLOAD AND PERFORMANCE SYSTEM DEFINED.—The term "Army Workload and Performance System" includes all applications in the master plan for the System submitted to Congress on June 8, 2001, and any revision of such master plan.

# Subtitle E—Defense Dependents Education

**SEC. 351. 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 2002.—Of the amount authorized to be appropriated pursuant to section 301(a)(5) for operation and maintenance for Defense-wide activities—

(1) $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies; and

(2) $1,000,000 shall be available only for the purpose of making payments to local educational agencies to assist such agencies in adjusting to reductions in the number of military dependent students as a result of the closure or realignment of military installations, as provided in section 386(d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(b) NOTIFICATION.—Not later than June 30, 2002, the Secretary of Defense shall notify each local educational agency that is eligible for assistance or a payment under subsection (a) for fiscal year 2002 of—

(1) that agency's eligibility for the assistance or payment; and

(2) the amount of the assistance or payment 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. 352. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.**

Of the amount authorized to be appropriated pursuant to section 301(a)(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 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–77; 20 U.S.C. 7703a).

**SEC. 353. AVAILABILITY OF AUXILIARY SERVICES OF DEFENSE DEPENDENTS' EDUCATION SYSTEM FOR DEPENDENTS WHO ARE HOME SCHOOL STUDENTS.**

Section 1407 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926) is amended—

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

(2) by inserting after subsection (c) the following new subsection:

"(d) AUXILIARY SERVICES AVAILABLE TO HOME SCHOOL STUDENTS.—(1) A dependent who is educated in a home school setting, but who is eligible to enroll in a school of the defense dependents' education system, shall be permitted to use or receive auxiliary services of that school without being required to either enroll in that school or register for a minimum number of courses offered by that school. The dependent may be required to satisfy other eligibility requirements and comply with standards of conduct applicable to students actually enrolled in that school who use or receive the same auxiliary services.

"(2) For purposes of paragraph (1), the term 'auxiliary services' includes use of academic resources, access to the library of the school, after hours use of school facilities, and participation in music, sports, and other extracurricular and interscholastic activities.".

**SEC. 354. COMPTROLLER GENERAL STUDY OF ADEQUACY OF COMPENSATION PROVIDED FOR TEACHERS IN THE DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS.**

(a) GAO STUDY REQUIRED.—The Comptroller General shall carry out a study of the adequacy of the pay and other elements of the compensation provided for teachers in the defense dependents' education system established under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(b) SPECIFIC CONSIDERATIONS.—In carrying out the study, the Comptroller General shall consider the following issues:

(1) Whether the compensation is adequate for recruiting and retaining high quality teachers.

(2) Whether any revision of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901 et seq.) or the regulations under that Act is advisable to address any problems identified with respect to the recruitment and retention of high quality teachers or for other purposes.

(c) REPORT.—Not later than May 1, 2002, the Comptroller General shall submit to Congress a report containing the results of the study, including—

(1) the Comptroller General's conclusions on the issues considered; and

(2) any recommendations for actions that the Comptroller General considers appropriate.

# Subtitle F—Other Matters

**SEC. 361. AVAILABILITY OF EXCESS DEFENSE PERSONAL PROPERTY TO SUPPORT DEPARTMENT OF VETERANS AFFAIRS INITIATIVE TO ASSIST HOMELESS VETERANS.**

(a) TRANSFER AUTHORITY.—Subsection (a) of section 2557 of title 10, United States Code, is amended—

(1) by striking "The Secretary" and inserting "(1) The Secretary"; and

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

"(2) The Secretary of Defense may make excess clothing, shoes, sleeping bags, and related nonlethal excess supplies available to the Secretary of Veterans Affairs for distribution to homeless veterans and programs assisting homeless veterans. The transfer of

nonlethal excess supplies to the Secretary of Veterans Affairs under this paragraph shall be without reimbursement.".

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

**"§ 2557. Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief"**.

(2) The table of sections at the beginning of chapter 152 of such title is amended by striking the item relating to section 2557 and inserting the following new item:

"2557. Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief.".

**SEC. 362. INCREMENTAL IMPLEMENTATION OF NAVY-MARINE CORPS INTRANET CONTRACT.**

(a) ADDITIONAL PHASE-IN AUTHORITY.—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) is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (f), (g), (h), and (i), respectively; and

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

"(c) ADDITIONAL PHASE-IN AUTHORITY PENDING SECOND JOINT CERTIFICATION.—(1)(A) Notwithstanding subsection (b)(3), the Secretary of the Navy may order additional work stations under the Navy-Marine Corps Intranet contract in excess of the number provided in the first increment of the contract under subsection (b)(2), but not to exceed an additional 100,000 work stations. The authority of the Secretary of the Navy to order additional work stations under this paragraph is subject to approval by both the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense may not grant approval to the Secretary of the Navy to order additional work stations under subparagraph (A) until a three-phase customer test and evaluation, observed by the Department of Defense, is completed for a statistically significant representative sample of the work stations operating on the Navy-Marine Corps Intranet. The test and evaluation shall include end user testing of day-to-day operations (including e-mail capability and performance), scenario-driven events, and scenario-based interoperability testing.

"(2)(A) Notwithstanding subsection (b)(3), the Secretary of the Navy may order additional work stations under the Navy-Marine Corps Intranet contract in excess of the number provided in the first increment of the contract under subsection (b)(2) and the number ordered under the authority of paragraph (1), but not to exceed an additional 150,000 work stations. The authority of the Secretary of the Navy to order additional work stations under this paragraph is also subject to approval by both the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense may not grant approval to the Secretary

of the Navy to order additional work stations under subparagraph (A) until each of the following occurs:

"(i) There has been a full transition of not less than 20,000 work stations to the Navy-Marine Corps Intranet.

"(ii) The work stations referred to in clause (i) have met applicable service-level agreements specified in the Navy-Marine Corps Intranet contract, as determined by contractor performance measurement under oversight by the Department of the Navy.

"(iii) The Chief Information Officer of the Navy certifies to the Secretary of the Navy and the Chief Information Officer of the Department of Defense that the results of the performance evaluation referred to in clause (ii) are acceptable.

"(3) Of the work stations ordered under the authority provided by paragraph (2), not more than 50 percent may reach the major milestone known as 'assumption of responsibility' until each of the following occurs:

"(A) All work stations for the headquarters of the Naval Air Systems Command have met applicable service-level agreements specified in the Navy-Marine Corps Intranet contract, as determined by contractor performance measurement under oversight by the Department of the Navy.

"(B) The Chief Information Officer of the Navy certifies to the Secretary of the Navy and the Chief Information Officer of the Department of Defense that the results of the performance evaluation referred to in subparagraph (B) are acceptable.

"(4) For the purposes of this section, when the information infrastructure and systems of a user of a work station are transferred into Navy-Marine Corps Intranet infrastructure and systems under the Navy-Marine Corps Intranet contract consistent with the applicable service-level agreements specified in the Navy-Marine Corps Intranet contract, the work station shall be considered as having been provided for the Navy-Marine Corps Intranet.

"(d) REPORTING AND REVIEW REQUIREMENTS.—(1) If work stations are ordered using the authority provided by paragraph (1) or (2) of subsection (c), the Secretary of the Navy shall submit to Congress a report, current as of the date the determination is made to order the work stations, on the following:

"(A) The number of work stations operating on the Navy-Marine Corps Intranet, including the number of work stations regarding which assumption of responsibility has occurred.

"(B) The status of testing and implementation of the Navy-Marine Corps Intranet program.

"(C) The number of work stations to be ordered under paragraph (1) or (2) of subsection (c), whichever applies.

"(2) A report containing the information required by paragraph (1) shall also be submitted to Congress when the requirements of paragraph (3) of subsection (c) are satisfied and additional work stations under the Navy-Marine Corps Intranet contract are authorized to reach assumption of responsibility.

"(3) The Comptroller General shall conduct a review of the impact that participation in the Navy-Marine Corps Intranet program has on information technology costs of working capital funded industrial facilities of the Department of the Navy and submit the results of the review to Congress.".

(b) NAVY-MARINE CORPS INTRANET MANAGER.—Such section is further amended by inserting after subsection (d), as added by subsection (a)(2) of this section, the following new subsection:

"(e) ASSIGNMENT OF NAVY-MARINE CORPS INTRANET MANAGER.—The Secretary of the Navy shall assign an employee of the Department of the Navy to the Navy-Marine Corps Intranet program whose sole responsibility will be to oversee and direct the program. The employee so assigned may not also be the program executive officer.".

(c) DEFINITIONS.—Subsection (i) of such section, as redesignated by subsection (a)(1) of this section, is amended—

(1) by striking "NAVY-MARINE CORPS INTRANET CONTRACT DEFINED.—" and inserting "DEFINITIONS.—(1)"; and

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

"(2) In this section, the term 'assumption of responsibility', with respect to a work station, means the point at which the contractor team under the Navy-Marine Corps Intranet contract assumes operational control of, and responsibility for, the existing information infrastructure and systems of a work station, in order to prepare for ultimate transition of the work station to the Navy-Marine Corps Intranet.".

**SEC. 363. COMPTROLLER GENERAL STUDY AND REPORT OF NATIONAL GUARD DISTRIBUTIVE TRAINING TECHNOLOGY PROJECT.**

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the Distributive Training Technology Project of the National Guard. The study shall examine—

(1) current requirements of the National Guard for interconnection of networks of the Distributive Training Technology Project with other networks, including networks of the Federal Emergency Management Agency and other Federal, State, and local emergency preparedness and response agencies; and

(2) future requirements of the National Guard for interconnection of networks of the Project with other networks, including those Federal and State agencies having disaster response functions.

(b) ELEMENTS OF STUDY.—For both the current requirements identified under subsection (a)(1) and future requirements identified under subsection (a)(2), the study shall examine the following:

(1) Appropriate connections between the Project and other networks.

(2) Means of protecting the Project from outside intrusion.

(3) Impediments to interconnectivity, including the extent to which national security concerns affect interconnectivity and the technological capability of the Department of Defense to impede interconnectivity, as well as other concerns or limitations that affect interconnectivity.

(4) Means of improving interconnectivity.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General 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 study conducted under subsection (a). The report shall describe the results of the study and shall include any recommendations that the Comptroller General considers appropriate in light of the study.

**SEC. 364. REAUTHORIZATION OF WARRANTY CLAIMS RECOVERY PILOT PROGRAM.**

(a) EXTENSION OF AUTHORITY.—Subsection (f) of section 391 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2304 note) is amended by striking "September 30, 2000" and inserting "September 30, 2003".

(b) REPORTING REQUIREMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking "January 1, 2001" and inserting "January 1, 2003"; and

(2) in paragraph (2), by striking "March 1, 2001" and inserting "March 1, 2003".

**SEC. 365. EVALUATION OF CURRENT DEMONSTRATION PROGRAMS TO IMPROVE QUALITY OF PERSONAL PROPERTY SHIPMENTS OF MEMBERS.**

(a) COMPLETION OF EVALUATION; REPORT.—Not later than March 31, 2002, the Secretary of Defense shall complete the ongoing evaluation of all test programs regarding the transportation of household goods for members of the Armed Forces and submit to Congress a report containing the results of such evaluation.

(b) CONTENTS OF REPORT.—The report shall include—

(1) the results of each test program evaluated, including whether the test program satisfied the goals for the movement of such household goods (as contained in the General Accounting Report NSIAD 97–49) and whether current business processes and information technology capabilities require upgrading or other changes to improve the transportation of such household goods; and

(2) recommendations for policy improvements for military household moves worldwide, including an estimate of the cost to implement each recommendation.

**SEC. 366. SENSE OF CONGRESS REGARDING SECURITY TO BE PROVIDED AT 2002 WINTER OLYMPIC GAMES.**

It is the sense of Congress that the Secretary of Defense, upon receipt of the certification of the Attorney General required by section 2564(a) of title 10, United States Code, should authorize the provision of assistance in support of essential security and safety at the 2002 Winter Olympic Games to be held in Salt Lake City, Utah, and other locations in the State of Utah.

# 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. Increase in senior enlisted active duty grade limit for Navy, Marine Corps, and Air Force.

**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 2002 limitation on non-dual status technicians.
Sec. 415. Limitations on numbers of reserve personnel serving on active duty or full-time National Guard duty in certain grades for administration of reserve components.

**Subtitle C—Other Matters Relating to Personnel Strengths**

Sec. 421. Administration of end strengths.
Sec. 422. Active duty end strength exemption for National Guard and reserve personnel performing funeral honors functions.

**Subtitle D—Authorization of Appropriations**

Sec. 431. Authorization of appropriations for military personnel.

# 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, 2002, as follows:

(1) The Army, 480,000.
(2) The Navy, 376,000.
(3) The Marine Corps, 172,600.
(4) The Air Force, 358,800.

**SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.**

Section 691(b) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking "372,000" and inserting "376,000"; and

(2) in paragraph (4), by striking "357,000" and inserting "358,800".

**SEC. 403. INCREASE IN SENIOR ENLISTED ACTIVE DUTY GRADE LIMIT FOR NAVY, MARINE CORPS, AND AIR FORCE.**

Section 517(a) of title 10, United States Code, is amended by striking "2 percent (or, in the case of the Army, 2.5 percent)" and inserting "2.5 percent".

# 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, 2002, as follows:

(1) The Army National Guard of the United States, 350,000.
(2) The Army Reserve, 205,000.
(3) The Naval Reserve, 87,000.
(4) The Marine Corps Reserve, 39,558.
(5) The Air National Guard of the United States, 108,400.
(6) The Air Force Reserve, 74,700.
(7) The Coast Guard Reserve, 8,000.

(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, 2002, 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, 23,698.

(2) The Army Reserve, 13,406.

(3) The Naval Reserve, 14,811.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 11,591.

(6) The Air Force Reserve, 1,437.

**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 2002 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 Reserve, 6,249.

(2) For the Army National Guard of the United States, 23,615.

(3) For the Air Force Reserve, 9,818.

(4) For the Air National Guard of the United States, 22,422.

**SEC. 414. FISCAL YEAR 2002 LIMITATION ON NON-DUAL STATUS TECHNICIANS.**

(a) LIMITATION.—The number of non-dual status technicians employed by the reserve components of the Army and the Air Force as of September 30, 2002, may not exceed the following:

(1) For the Army Reserve, 1,095.

(2) For the Army National Guard of the United States, 1,600.

(3) For the Air Force Reserve, 90.

(4) For the Air National Guard of the United States, 350.

(b) 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.

**SEC. 415. LIMITATIONS ON NUMBERS OF RESERVE PERSONNEL SERVING ON ACTIVE DUTY OR FULL-TIME NATIONAL GUARD DUTY IN CERTAIN GRADES FOR ADMINISTRATION OF RESERVE COMPONENTS.**

(a) OFFICERS.—The text of section 12011 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATIONS.—(1) Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members who may be serving in each of the grades of major, lieutenant

colonel, and colonel may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

| "Total number of members of a reserve component serving on full-time reserve component duty: | Number of officers of that reserve component who may be serving in the grade of: | | |
|---|---|---|---|
| | Major | Lieutenant Colonel | Colonel |
| Army Reserve: | | | |
| 10,000 | 1,390 | 740 | 230 |
| 11,000 | 1,529 | 803 | 242 |
| 12,000 | 1,668 | 864 | 252 |
| 13,000 | 1,804 | 924 | 262 |
| 14,000 | 1,940 | 984 | 272 |
| 15,000 | 2,075 | 1,044 | 282 |
| 16,000 | 2,210 | 1,104 | 291 |
| 17,000 | 2,345 | 1,164 | 300 |
| 18,000 | 2,479 | 1,223 | 309 |
| 19,000 | 2,613 | 1,282 | 318 |
| 20,000 | 2,747 | 1,341 | 327 |
| 21,000 | 2,877 | 1,400 | 336 |
| Army National Guard: | | | |
| 20,000 | 1,500 | 850 | 325 |
| 22,000 | 1,650 | 930 | 350 |
| 24,000 | 1,790 | 1,010 | 370 |
| 26,000 | 1,930 | 1,085 | 385 |
| 28,000 | 2,070 | 1,160 | 400 |
| 30,000 | 2,200 | 1,235 | 405 |
| 32,000 | 2,330 | 1,305 | 408 |
| 34,000 | 2,450 | 1,375 | 411 |
| 36,000 | 2,570 | 1,445 | 411 |
| 38,000 | 2,670 | 1,515 | 411 |
| 40,000 | 2,770 | 1,580 | 411 |
| 42,000 | 2,837 | 1,644 | 411 |
| Marine Corps Reserve: | | | |
| 1,100 | 106 | 56 | 20 |
| 1,200 | 110 | 60 | 21 |
| 1,300 | 114 | 63 | 22 |
| 1,400 | 118 | 66 | 23 |
| 1,500 | 121 | 69 | 24 |
| 1,600 | 124 | 72 | 25 |
| 1,700 | 127 | 75 | 26 |
| 1,800 | 130 | 78 | 27 |
| 1,900 | 133 | 81 | 28 |
| 2,000 | 136 | 84 | 29 |
| 2,100 | 139 | 87 | 30 |
| 2,200 | 141 | 90 | 31 |
| 2,300 | 143 | 92 | 32 |
| 2,400 | 145 | 94 | 33 |
| 2,500 | 147 | 96 | 34 |
| 2,600 | 149 | 98 | 35 |
| Air Force Reserve: | | | |
| 500 | 83 | 85 | 50 |
| 1,000 | 155 | 165 | 95 |
| 1,500 | 220 | 240 | 135 |
| 2,000 | 285 | 310 | 170 |

| "Total number of members of a reserve component serving on full-time reserve component duty: | Number of officers of that reserve component who may be serving in the grade of: | | |
|---|---|---|---|
| | Major | Lieutenant Colonel | Colonel |
| 2,500 | 350 | 369 | 203 |
| 3,000 | 413 | 420 | 220 |
| 3,500 | 473 | 464 | 230 |
| 4,000 | 530 | 500 | 240 |
| 4,500 | 585 | 529 | 247 |
| 5,000 | 638 | 550 | 254 |
| 5,500 | 688 | 565 | 261 |
| 6,000 | 735 | 575 | 268 |
| 7,000 | 770 | 595 | 280 |
| 8,000 | 805 | 615 | 290 |
| 10,000 | 835 | 635 | 300 |
| Air National Guard: | | | |
| 5,000 | 333 | 335 | 251 |
| 6,000 | 403 | 394 | 260 |
| 7,000 | 472 | 453 | 269 |
| 8,000 | 539 | 512 | 278 |
| 9,000 | 606 | 571 | 287 |
| 10,000 | 673 | 630 | 296 |
| 11,000 | 740 | 688 | 305 |
| 12,000 | 807 | 742 | 314 |
| 13,000 | 873 | 795 | 323 |
| 14,000 | 939 | 848 | 332 |
| 15,000 | 1,005 | 898 | 341 |
| 16,000 | 1,067 | 948 | 350 |
| 17,000 | 1,126 | 998 | 359 |
| 18,000 | 1,185 | 1,048 | 368 |
| 19,000 | 1,235 | 1,098 | 377 |
| 20,000 | 1,283 | 1,148 | 380. |

"(2) Of the total number of members of the Naval Reserve who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members who may be serving in each of the grades of lieutenant commander, commander, and captain may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

| "Total number of members of Naval Reserve serving on full-time reserve component duty: | Number of officers who may be serving in the grade of: | | |
|---|---|---|---|
| | Lieutenant commander | Commander | Captain |
| 10,000 | 807 | 447 | 141 |
| 11,000 | 867 | 467 | 153 |
| 12,000 | 924 | 485 | 163 |
| 13,000 | 980 | 503 | 173 |
| 14,000 | 1,035 | 521 | 183 |
| 15,000 | 1,088 | 538 | 193 |
| 16,000 | 1,142 | 555 | 203 |
| 17,000 | 1,195 | 565 | 213 |
| 18,000 | 1,246 | 575 | 223 |
| 19,000 | 1,291 | 585 | 233 |
| 20,000 | 1,334 | 595 | 242 |
| 21,000 | 1,364 | 603 | 250 |

| "Total number of members of Naval Reserve serving on full-time reserve component duty: | Number of officers who may be serving in the grade of: | | |
|---|---|---|---|
| | Lieutenant commander | Commander | Captain |
| 22,000 ..... | 1,384 | 610 | 258 |
| 23,000 ..... | 1,400 | 615 | 265 |
| 24,000 ..... | 1,410 | 620 | 270. |

"(b) DETERMINATIONS BY INTERPOLATION.—If the total number of members of a reserve component serving on full-time reserve component duty is between any two consecutive numbers in the first column of the appropriate table in paragraph (1) or (2) of subsection (a), the corresponding authorized strengths for each of the grades shown in that table for that component are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of members of a reserve component serving on full-time reserve component duty is more or less than the highest or lowest number, respectively, set forth in the first column of the appropriate table in paragraph (1) or (2) of subsection (a), the Secretary concerned shall fix the corresponding strengths for the grades shown in that table at the same proportion as is reflected in the nearest limit shown in the table.

"(c) REALLOCATIONS TO LOWER GRADES.—Whenever the number of officers serving in any grade for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for any lower grade.

"(d) SECRETARIAL WAIVER.—(1) Upon determining that it is in the national interest to do so, the Secretary of Defense may increase for a particular fiscal year the number of reserve officers that may be on full-time reserve component duty for a reserve component in a grade referred to in a table in subsection (a) by a number that does not exceed the number equal to 5 percent of the maximum number specified for the grade in that table.

"(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.

"(e) FULL-TIME RESERVE COMPONENT DUTY DEFINED.—In this section, the term 'full-time reserve component duty' means the following duty:

"(1) Active duty described in sections 10211, 10302, 10303, 10304, 10305, 12310, or 12402 of this title.

"(2) Full-time National Guard duty (other than for training) under section 502(f) of title 32.

"(3) Active duty described in section 708 of title 32.".

(b) SENIOR ENLISTED MEMBERS.—The text of section 12012 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATIONS.—Of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members in each of pay grades of E–8 and E–9 who may be serving on active duty under section 10211 or 12310, or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than

for training) in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not, as of the end of that fiscal year, exceed the number determined in accordance with the following table:

| "Total number of members of a reserve component serving on full-time reserve component duty: | Number of members of that reserve component who may be serving in the grade of: | |
|---|---|---|
| | E–8 | E–9 |
| Army Reserve: | | |
| 10,000 | 1,052 | 154 |
| 11,000 | 1,126 | 168 |
| 12,000 | 1,195 | 180 |
| 13,000 | 1,261 | 191 |
| 14,000 | 1,327 | 202 |
| 15,000 | 1,391 | 213 |
| 16,000 | 1,455 | 224 |
| 17,000 | 1,519 | 235 |
| 18,000 | 1,583 | 246 |
| 19,000 | 1,647 | 257 |
| 20,000 | 1,711 | 268 |
| 21,000 | 1,775 | 278 |
| Army National Guard: | | |
| 20,000 | 1,650 | 550 |
| 22,000 | 1,775 | 615 |
| 24,000 | 1,900 | 645 |
| 26,000 | 1,945 | 675 |
| 28,000 | 1,945 | 705 |
| 30,000 | 1,945 | 725 |
| 32,000 | 1,945 | 730 |
| 34,000 | 1,945 | 735 |
| 36,000 | 1,945 | 738 |
| 38,000 | 1,945 | 741 |
| 40,000 | 1,945 | 743 |
| 42,000 | 1,945 | 743 |
| Naval Reserve: | | |
| 10,000 | 340 | 143 |
| 11,000 | 364 | 156 |
| 12,000 | 386 | 169 |
| 13,000 | 407 | 182 |
| 14,000 | 423 | 195 |
| 15,000 | 435 | 208 |
| 16,000 | 447 | 221 |
| 17,000 | 459 | 234 |
| 18,000 | 471 | 247 |
| 19,000 | 483 | 260 |
| 20,000 | 495 | 273 |
| 21,000 | 507 | 286 |
| 22,000 | 519 | 299 |
| 23,000 | 531 | 312 |
| 24,000 | 540 | 325 |
| Marine Corps Reserve: | | |
| 1,100 | 50 | 11 |
| 1,200 | 55 | 12 |
| 1,300 | 60 | 13 |

| "Total number of members of a reserve component serving on full-time reserve component duty: | Number of members of that reserve component who may be serving in the grade of: | |
|---|---|---|
| | E–8 | E–9 |
| 1,400 | 65 | 14 |
| 1,500 | 70 | 15 |
| 1,600 | 75 | 16 |
| 1,700 | 80 | 17 |
| 1,800 | 85 | 18 |
| 1,900 | 89 | 19 |
| 2,000 | 93 | 20 |
| 2,100 | 96 | 21 |
| 2,200 | 99 | 22 |
| 2,300 | 101 | 23 |
| 2,400 | 103 | 24 |
| 2,500 | 105 | 25 |
| 2,600 | 107 | 26 |
| Air Force Reserve: | | |
| 500 | 75 | 40 |
| 1,000 | 145 | 75 |
| 1,500 | 208 | 105 |
| 2,000 | 270 | 130 |
| 2,500 | 325 | 150 |
| 3,000 | 375 | 170 |
| 3,500 | 420 | 190 |
| 4,000 | 460 | 210 |
| 4,500 | 495 | 230 |
| 5,000 | 530 | 250 |
| 5,500 | 565 | 270 |
| 6,000 | 600 | 290 |
| 7,000 | 670 | 330 |
| 8,000 | 740 | 370 |
| 10,000 | 800 | 400 |
| Air National Guard | | |
| 5,000 | 1,020 | 405 |
| 6,000 | 1,070 | 435 |
| 7,000 | 1,120 | 465 |
| 8,000 | 1,170 | 490 |
| 9,000 | 1,220 | 510 |
| 10,000 | 1,270 | 530 |
| 11,000 | 1,320 | 550 |
| 12,000 | 1,370 | 570 |
| 13,000 | 1,420 | 589 |
| 14,000 | 1,470 | 608 |
| 15,000 | 1,520 | 626 |
| 16,000 | 1,570 | 644 |
| 17,000 | 1,620 | 661 |
| 18,000 | 1,670 | 678 |
| 19,000 | 1,720 | 695 |
| 20,000 | 1,770 | 712. |

"(b) DETERMINATIONS BY INTERPOLATION.—If the total number of members of a reserve component serving on full-time reserve component duty is between any two consecutive numbers in the

first column of the table in subsection (a), the corresponding authorized strengths for each of the grades shown in that table for that component are determined by mathematical interpolation between the respective numbers of the two strengths. If the total number of members of a reserve component serving on full-time reserve component duty is more or less than the highest or lowest number, respectively, set forth in the first column of the table in subsection (a), the Secretary concerned shall fix the corresponding strengths for the grades shown in the table at the same proportion as is reflected in the nearest limit shown in the table.

"(c) REALLOCATIONS TO LOWER GRADE.—Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number authorized for that grade under this section, the difference between the two numbers may be applied to increase the number authorized under this section for pay grade E–8.

"(d) SECRETARIAL WAIVER.—(1) Upon determining that it is in the national interest to do so, the Secretary of Defense may increase for a particular fiscal year the number of reserve enlisted members that may be on active duty or full-time National Guard duty as described in subsection (a) for a reserve component in a pay grade referred to in a table in subsection (a) by a number that does not exceed the number equal to 5 percent of the maximum number specified for that grade and reserve component in the table.

"(2) Whenever the Secretary exercises the authority provided in paragraph (1), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice in writing of the adjustment made.

"(e) FULL-TIME RESERVE COMPONENT DUTY DEFINED.—In this section, the term 'full-time reserve component duty' has the meaning given the term in section 12011(e) of this title.".

# Subtitle C—Other Matters Relating to Personnel Strengths

**SEC. 421. ADMINISTRATION OF END STRENGTHS.**

(a) INCREASE IN PERCENTAGE BY WHICH ACTIVE COMPONENT END STRENGTHS MAY BE INCREASED.—Section 115(c)(1) of title 10, United States Code, is amended by striking "1 percent" and inserting "2 percent".

(b) WAIVER OF END STRENGTHS DURING NATIONAL EMERGENCY.—The text of section 123a of such title is amended to read as follows:

"(a) DURING WAR OR NATIONAL EMERGENCY.—If at the end of any fiscal year there is in effect a war or national emergency, the President may waive any statutory end strength with respect to that fiscal year. Any such waiver may be issued only for a statutory end strength that is prescribed by law before the waiver is issued.

"(b) UPON TERMINATION OF WAR OR NATIONAL EMERGENCY.—Upon the termination of a war or national emergency with respect to which the President has exercised the authority provided by subsection (a), the President may defer the effectiveness of any statutory end strength with respect to the fiscal year during which

the termination occurs. Any such deferral may not extend beyond the last day of the sixth month beginning after the date of such termination.

"(c) STATUTORY END STRENGTH.—In this section, the term 'statutory end strength' means any end-strength limitation with respect to a fiscal year that is prescribed by law for any military or civilian component of the armed forces or of the Department of Defense.".

**SEC. 422. ACTIVE DUTY END STRENGTH EXEMPTION FOR NATIONAL GUARD AND RESERVE PERSONNEL PERFORMING FUNERAL HONORS FUNCTIONS.**

Section 115(d) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(10) Members of reserve components on active duty to prepare for and to perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.

"(11) Members on full-time National Guard duty to prepare for and perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.".

## Subtitle D—Authorization of Appropriations

**SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2002 a total of $82,307,281,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2002.

# TITLE V—MILITARY PERSONNEL POLICY

**Subtitle A—Officer Personnel Policy**

Sec. 501. Enhanced flexibility for management of senior general and flag officer positions.
Sec. 502. Certifications of satisfactory performance for retirement of officers in grades above major general and rear admiral.
Sec. 503. Review of actions of selection boards.
Sec. 504. Temporary reduction of time-in-grade requirement for eligibility for promotion for certain active-duty list officers in grades of first lieutenant and lieutenant (junior grade).
Sec. 505. Authority for promotion without selection board consideration for all fully qualified officers in grade of first lieutenant or lieutenant (junior grade) in the Navy.
Sec. 506. Authority to adjust date of rank of certain promotions delayed by reason of unusual circumstances.
Sec. 507. Authority for limited extension of medical deferment of mandatory retirement or separation.
Sec. 508. Authority for limited extension on active duty of members subject to mandatory retirement or separation.
Sec. 509. Exemption from certain administrative limitations for retired officers ordered to active duty as defense or service attachés.
Sec. 510. Officer in charge of United States Navy Band.

**Subtitle B—Reserve Component Personnel Policy**

Sec. 511. Placement on active-duty list of certain Reserve officers on active duty for a period of three years or less.

Sec. 512. Exception to baccalaureate degree requirement for appointment of Reserve officers to grades above first lieutenant.
Sec. 513. Improved disability benefits for certain reserve component members.
Sec. 514. Time-in-grade requirement for reserve component officers retired with a nonservice-connected disability.
Sec. 515. Equal treatment of Reserves and full-time active duty members for purposes of managing personnel deployments.
Sec. 516. Modification of physical examination requirements for members of the Individual Ready Reserve.
Sec. 517. Retirement of Reserve members without requirement for formal application or request.
Sec. 518. Space-required travel by Reserves on military aircraft.
Sec. 519. Payment of Federal Employee Health Benefit Program premiums for certain Reservists called to active duty in support of contingency operations.

**Subtitle C—Joint Specialty Officers and Joint Professional Military Education**

Sec. 521. Nominations and promotions for joint specialty officers.
Sec. 522. Joint duty credit.
Sec. 523. Retroactive joint service credit for duty in certain joint task forces.
Sec. 524. Revision to annual report on joint officer management.
Sec. 525. Requirement for selection for joint specialty before promotion to general or flag officer grade.
Sec. 526. Independent study of joint officer management and joint professional military education reforms.
Sec. 527. Professional development education.
Sec. 528. Authority for National Defense University to enroll certain private sector civilians.
Sec. 529. Continuation of reserve component professional military education test.

**Subtitle D—Military Education and Training**

Sec. 531. Defense Language Institute Foreign Language Center.
Sec. 532. Authority for the Marine Corps University to award degree of master of strategic studies.
Sec. 533. Foreign students attending the service academies.
Sec. 534. Increase in maximum age for appointment as a cadet or midshipman in Senior Reserve Officers' Training Corps scholarship programs.
Sec. 535. Participation of regular enlisted members of the Armed Forces in Senior Reserve Officers' Training Corps program.
Sec. 536. Authority to modify the service obligation of certain ROTC cadets in military junior colleges receiving financial assistance.
Sec. 537. Repeal of limitation on number of Junior Reserve Officers' Training Corps units.
Sec. 538. Modification of nurse officer candidate accession program restriction on students attending educational institutions with senior reserve officers' training programs.
Sec. 539. Reserve health professionals stipend program expansion.
Sec. 540. Housing allowance for the chaplain for the Corps of Cadets at the United States Military Academy.

**Subtitle E—Recruiting and Accession Programs**

Sec. 541. 18-month enlistment pilot program.
Sec. 542. Improved benefits under the Army College First program.
Sec. 543. Correction and extension of certain Army recruiting pilot program authorities.
Sec. 544. Military recruiter access to secondary school students.
Sec. 545. Permanent authority for use of military recruiting funds for certain expenses at Department of Defense recruiting functions.
Sec. 546. Report on health and disability benefits for pre-accession training and education programs.

**Subtitle F—Decorations, Awards, and Posthumous Commissions**

Sec. 551. Authority for award of the Medal of Honor to Humbert R. Versace, Jon E. Swanson, and Ben L. Salomon for valor.
Sec. 552. Review regarding award of Medal of Honor to certain Jewish American and Hispanic American war veterans.
Sec. 553. Authority to issue duplicate Medals of Honor and to replace stolen military decorations.
Sec. 554. Retroactive Medal of Honor special pension.

Sec. 555. Waiver of time limitations for award of certain decorations to certain persons.
Sec. 556. Sense of Congress on issuance of certain medals.
Sec. 557. Sense of Congress on development of a more comprehensive, uniform policy for the award of decorations to military and civilian personnel of the Department of Defense.
Sec. 558. Posthumous Army commission in the grade of captain in the Chaplains Corps to Ella E. Gibson for service as chaplain of the First Wisconsin Heavy Artillery Regiment during the Civil War.

**Subtitle G—Funeral Honors Duty**

Sec. 561. Participation of military retirees in funeral honors details.
Sec. 562. Funeral honors duty performed by Reserve and Guard members to be treated as inactive-duty training for certain purposes.
Sec. 563. Use of military leave for funeral honors duty by Reserve members and National Guardsmen.
Sec. 564. Authority to provide appropriate articles of clothing as a civilian uniform for civilians participating in funeral honor details.

**Subtitle H—Military Spouses and Family Members**

Sec. 571. Improved financial and other assistance to military spouses for job training and education.
Sec. 572. Persons authorized to be included in surveys of military families regarding Federal programs.
Sec. 573. Clarification of treatment of classified information concerning persons in a missing status.
Sec. 574. Transportation to annual meeting of next-of-kin of persons unaccounted for from conflicts after World War II.
Sec. 575. Amendments to charter of Defense Task Force on Domestic Violence.

**Subtitle I—Military Justice and Legal Assistance Matters**

Sec. 581. Blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel.
Sec. 582. Requirement that courts-martial consist of not less than 12 members in capital cases.
Sec. 583. Acceptance of voluntary legal assistance for the civil affairs of members and former members of the uniformed services and their dependents.

**Subtitle J—Other Matters**

Sec. 591. Congressional review period for change in ground combat exclusion policy.
Sec. 592. Per diem allowance for lengthy or numerous deployments.
Sec. 593. Clarification of disability severance pay computation.
Sec. 594. Transportation or storage of privately owned vehicles on change of permanent station.
Sec. 595. Repeal of requirement for final Comptroller General report relating to Army end strength allocations.
Sec. 596. Continued Department of Defense administration of National Guard Challenge program and Department of Defense Starbase program.
Sec. 597. Report on Defense Science Board recommendation on original appointments in regular grades for Academy graduates and certain other new officers.
Sec. 598. Sense of Congress regarding the selection of officers for recommendation for appointment as Commander, United States Transportation Command.

# Subtitle A—Officer Personnel Policy

### SEC. 501. ENHANCED FLEXIBILITY FOR MANAGEMENT OF SENIOR GENERAL AND FLAG OFFICER POSITIONS.

(a) REPEAL OF LIMIT ON NUMBER OF OFFICERS ON ACTIVE DUTY IN GRADES OF GENERAL AND ADMIRAL.—Section 528 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 32 of such title is amended by striking the item relating to section 528.

**SEC. 502. CERTIFICATIONS OF SATISFACTORY PERFORMANCE FOR RETIREMENT OF OFFICERS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.**

Section 1370(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary of Defense may delegate authority to make a certification with respect to an officer under paragraph (1) only to the Under Secretary of Defense for Personnel and Readiness or the Deputy Under Secretary of Defense for Personnel and Readiness.

"(B) If authority is delegated under subparagraph (A) and, in the course of consideration of an officer for a certification under paragraph (1), the Under Secretary or (if such authority is delegated to both the Under and Deputy Under Secretary) the Deputy Under Secretary makes a determination described in subparagraph (C) with respect to that officer, the Under Secretary or Deputy Under Secretary, as the case may be, may not exercise the delegated authority in that case, but shall refer the matter to the Secretary of Defense, who shall personally determine whether to issue a certification under paragraph (1) with respect to that officer.

"(C) A determination referred to in subparagraph (B) is a determination that there is potentially adverse information concerning an officer and that such information has not previously been submitted to the Senate in connection with the consideration by the Senate of a nomination of that officer for an appointment for which the advice and consent of the Senate is required.".

**SEC. 503. REVIEW OF ACTIONS OF SELECTION BOARDS.**

(a) IN GENERAL.—(1) Chapter 79 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 1558. Review of actions of selection boards: correction of military records by special boards; judicial review**

"(a) CORRECTION OF MILITARY RECORDS.—The Secretary of a military department may correct a person's military records in accordance with a recommendation made by a special board. Any such correction may be made effective as of the effective date of the action taken on a report of a previous selection board that resulted in the action corrected in the person's military records.

"(b) DEFINITIONS.—In this section:

"(1) SPECIAL BOARD.—(A) The term 'special board' means a board that the Secretary of a military department convenes under any authority to consider whether to recommend a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person.

"(B) Such term includes a board for the correction of military records convened under section 1552 of this title, if designated as a special board by the Secretary concerned.

"(C) Such term does not include a promotion special selection board convened under section 628 or 14502 of this title.

"(2) SELECTION BOARD.—(A) The term 'selection board' means a selection board convened under section 573(c), 580, 580a, 581, 611(b), 637, 638, 638a, 14101(b), 14701, 14704, or

14705 of this title, and any other board convened by the Secretary of a military department under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces or for separation, retirement, or transfer to inactive status in a reserve component for the purpose of reducing the number of persons serving in the armed forces.

"(B) Such term does not include any of the following:

"(i) A promotion board convened under section 573(a), 611(a), or 14101(a) of this title.

"(ii) A special board.

"(iii) A special selection board convened under section 628 of this title.

"(iv) A board for the correction of military records convened under section 1552 of this title.

"(3) INVOLUNTARILY BOARD-SEPARATED.—The term 'involuntarily board-separated' means separated or retired from an armed force, or transferred to the Retired Reserve or to inactive status in a reserve component, as a result of a recommendation of a selection board.

"(c) RELIEF ASSOCIATED WITH CORRECTION OF CERTAIN ACTIONS.—(1) The Secretary of the military department concerned shall ensure that an involuntarily board-separated person receives relief under paragraph (2) or under paragraph (3) if the person, as a result of a correction of the person's military records under subsection (a), becomes entitled to retention on or restoration to active duty or to active status in a reserve component.

"(2)(A) A person referred to in paragraph (1) shall, with that person's consent, be restored to the same status, rights, and entitlements (less appropriate offsets against back pay and allowances) in that person's armed force as the person would have had if the person had not been selected to be involuntarily board-separated as a result of an action the record of which is corrected under subsection (a). An action under this subparagraph is subject to subparagraph (B).

"(B) Nothing in subparagraph (A) may be construed to permit a person to be on active duty or in an active status in a reserve component after the date on which the person would have been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component if the person had not been selected to be involuntarily board-separated in an action of a selection board the record of which is corrected under subsection (a).

"(3) If an involuntarily board-separated person referred to in paragraph (1) does not consent to a restoration of status, rights, and entitlements under paragraph (2), the Secretary concerned shall pay that person back pay and allowances (less appropriate offsets), and shall provide that person service credit, for the period—

"(A) beginning on the date of the person's separation, retirement, or transfer to the Retired Reserve or to inactive status in a reserve component, as the case may be; and

"(B) ending on the earlier of—

"(i) the date on which the person would have been so restored under paragraph (2), as determined by the Secretary concerned; or

"(ii) the date on which the person would otherwise have been separated, retired, or transferred to the Retired

Reserve or to inactive status in a reserve component, as the case may be.

"(d) FINALITY OF UNFAVORABLE ACTION.—If a special board makes a recommendation not to correct the military records of a person regarding action taken in the case of that person on the basis of a previous report of a selection board, the action previously taken on that report shall be considered as final as of the date of the action taken on that report.

"(e) REGULATIONS.—(1) The Secretary of each military department shall prescribe regulations to carry out this section. Regulations under this subsection may not apply to subsection (f), other than to paragraph (4)(C) of that subsection.

"(2) The Secretary may prescribe in the regulations under paragraph (1) the circumstances under which consideration by a special board may be provided for under this section, including the following:

"(A) The circumstances under which consideration of a person's case by a special board is contingent upon application by or for that person.

"(B) Any time limits applicable to the filing of an application for such consideration.

"(3) Regulations prescribed by the Secretary of a military department under this subsection may not take effect until approved by the Secretary of Defense.

"(f) JUDICIAL REVIEW.—(1) A person seeking to challenge an action or recommendation of a selection board, or an action taken by the Secretary of the military department concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the action or recommendation has first been considered by a special board under this section or the Secretary concerned has denied the convening of such a board for such consideration.

"(2)(A) A court of the United States may review a determination by the Secretary of a military department not to convene a special board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

"(i) arbitrary or capricious;

"(ii) not based on substantial evidence;

"(iii) a result of material error of fact or material administrative error; or

"(iv) otherwise contrary to law.

"(B) If a court sets aside a determination by the Secretary of a military department not to convene a special board, it shall remand the case to the Secretary concerned, who shall provide for consideration by a special board.

"(3) A court of the United States may review a recommendation of a special board or an action of the Secretary of the military department concerned on the report of a special board. In any such case, a court may set aside the action only if the court finds that the recommendation or action was—

"(A) arbitrary or capricious;

"(B) not based on substantial evidence;

"(C) a result of material error of fact or material administrative error; or

"(D) otherwise contrary to law.

"(4)(A) If, six months after receiving a complete application for consideration by a special board in any case, the Secretary

concerned has not convened a special board and has not denied consideration by a special board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied consideration of the case by a special board.

"(B) If, six months after the convening of a special board in any case, the Secretary concerned has not taken final action on the report of the special board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

"(C) Under regulations prescribed under subsection (e), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

"(g) EXISTING JURISDICTION.—Nothing in this section limits—

"(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

"(2) the authority of the Secretary of a military department to correct a military record under section 1552 of this title.".

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

"1558. Review of actions of selection boards: correction of military records by special boards; judicial review.".

(b) SPECIAL SELECTION BOARDS.—Section 628 of such title is amended—

(1) by redesignating subsection (g) as subsection (k); and

(2) by inserting after subsection (f) the following new subsections:

"(g) JUDICIAL REVIEW.—(1)(A) A court of the United States may review a determination by the Secretary of a military department under subsection (a)(1) or (b)(1) not to convene a special selection board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

"(i) arbitrary or capricious;

"(ii) not based on substantial evidence;

"(iii) a result of material error of fact or material administrative error; or

"(iv) otherwise contrary to law.

"(B) If a court sets aside a determination by the Secretary of a military department not to convene a special selection board under this section, it shall remand the case to the Secretary concerned, who shall provide for consideration by such a board.

"(2) A court of the United States may review the action of a special selection board convened under this section or an action of the Secretary of the military department concerned on the report of such a board. In any such case, a court may set aside the action only if the court finds that the action was—

"(A) arbitrary or capricious;

"(B) not based on substantial evidence;

"(C) a result of material error of fact or material administrative error; or

"(D) otherwise contrary to law.

"(3)(A) If, six months after receiving a complete application for consideration by a special selection board under this section in any case, the Secretary concerned has not convened such a board and has not denied consideration by such a board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied the consideration of the case by such a board.

"(B) If, six months after the convening of a special selection board under this section in any case, the Secretary concerned has not taken final action on the report of the board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

"(C) Under regulations prescribed under subsection (j), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

"(h) LIMITATIONS OF OTHER JURISDICTION.—No official or court of the United States may, with respect to a claim based to any extent on the failure of a person to be selected for promotion by a promotion board—

"(1) consider the claim unless the person has first been referred by the Secretary concerned to a special selection board convened under this section and acted upon by that board and the report of the board has been approved by the President; or

"(2) except as provided in subsection (g), grant any relief on the claim unless the person has been selected for promotion by a special selection board convened under this section to consider the person for recommendation for promotion and the report of the board has been approved by the President.

"(i) EXISTING JURISDICTION.—Nothing in this section limits—

"(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

"(2) the authority of the Secretary of a military department to correct a military record under section 1552 of this title.

"(j) REGULATIONS.—(1) The Secretary of each military department shall prescribe regulations to carry out this section. Regulations under this subsection may not apply to subsection (g), other than to paragraph (3)(C) of that subsection.

"(2) The Secretary may prescribe in the regulations under paragraph (1) the circumstances under which consideration by a special selection board may be provided for under this section, including the following:

"(A) The circumstances under which consideration of a person's case by a special selection board is contingent upon application by or for that person.

"(B) Any time limits applicable to the filing of an application for such consideration.

"(3) Regulations prescribed by the Secretary of a military department under this subsection may not take effect until approved by the Secretary of Defense.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect

to any proceeding pending on or after the date of the enactment of this Act without regard to whether a challenge to an action of a selection board of any of the Armed Forces being considered in the proceeding was initiated before, on, or after that date.

(2) The amendments made by this section shall not apply with respect to any action commenced in a court of the United States before the date of the enactment of this Act.

**SEC. 504. TEMPORARY REDUCTION OF TIME-IN-GRADE REQUIREMENT FOR ELIGIBILITY FOR PROMOTION FOR CERTAIN ACTIVE-DUTY LIST OFFICERS IN GRADES OF FIRST LIEUTENANT AND LIEUTENANT (JUNIOR GRADE).**

(a) AUTHORITY.—Subsection (a)(1)(B) of section 619 of title 10, United States Code, is amended by inserting before the period at the end the following: ", except that the minimum period of service in effect under this subparagraph before October 1, 2005, shall be eighteen months".

(b) STYLISTIC AMENDMENTS.—Such section is further amended as follows:

(1) Subsection (a) is amended by striking "(a)(1)" and inserting "(a) TIME-IN-GRADE REQUIREMENTS.—(1)".

(2) Subsection (b) is amended by striking "(b)(1)" and inserting "(b) CONTINUED ELIGIBILITY FOR CONSIDERATION FOR PROMOTION OF OFFICERS WHO HAVE PREVIOUSLY FAILED OF SELECTION.—(1)".

(3) Subsection (c) is amended by striking "(c)(1)" and inserting "(c) OFFICERS TO BE CONSIDERED BY PROMOTION BOARDS.—(1)".

(4) Subsection (d) is amended by inserting "CERTAIN OFFICERS NOT TO BE CONSIDERED.—" after "(d)".

(c) TECHNICAL AMENDMENT.—Subsection (a)(4) of such section is amended by striking "clause (A)" and inserting "subparagraph (A)".

**SEC. 505. AUTHORITY FOR PROMOTION WITHOUT SELECTION BOARD CONSIDERATION FOR ALL FULLY QUALIFIED OFFICERS IN GRADE OF FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) IN THE NAVY.**

(a) ACTIVE-DUTY LIST PROMOTIONS.—(1) Section 624(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subsection (d), officers on the active-duty list in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned.

"(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter.

"(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

"(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the active-duty list in a grade who the Secretary of the military department concerned determines—

"(i) are fully qualified for promotion to the next higher grade; and

"(ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title upon the convening of such a board.".

(2) Section 631 of such title is amended by adding at the end the following new subsection:

"(d) For the purposes of this chapter, an officer of the Army, Air Force, or Marine Corps who holds the grade of first lieutenant, and an officer of the Navy who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 624(a)(3) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.".

(3) Section 611 of such title is amended—

(A) in subsection (a)—

(i) by striking "Under" and all that follows through "require," and inserting "Whenever the needs of the service require, the Secretary of the military department concerned"; and

(ii) by adding at the end the following new sentence: "The preceding sentence does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 624(a)(3) of this title all such officers whom the Secretary finds to be fully qualified for promotion.";

(B) in subsection (b), by striking "Under" and all that follows through "require," and inserting "Whenever the needs of the service require, the Secretary of the military department concerned"; and

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

"(c) The convening of selection boards under subsections (a) and (b) shall be under regulations prescribed by the Secretary of Defense.".

(b) RESERVE ACTIVE-STATUS LIST PROMOTIONS.—(1) Section 14308(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned. Such promotions shall be in the manner specified in section 12203 of this title.

"(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall

be treated in the same manner as a promotion list under this chapter and chapter 1403 of this title.

"(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

"(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the reserve active-status list in a grade who the Secretary of the military department concerned determines—

"(i) are fully qualified for promotion to the next higher grade; and

"(ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title upon the convening of such a board.".

(2) Section 14504 of such title is amended by adding at the end the following new subsection:

"(c) OFFICERS IN GRADE OF FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) FOUND NOT FULLY QUALIFIED FOR PROMOTION.—For the purposes of this chapter, an officer of the Army, Air Force, or Marine Corps on a reserve active-status list who holds the grade of first lieutenant, and an officer of the Navy on a reserve active-status list who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 14308(b)(4) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.".

(3) Section 14101(a) of such title is amended by adding at the end the following new paragraph:

"(3) Paragraph (1) does not require the convening of a selection board in the case of officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) when the Secretary concerned recommends for promotion to the next higher grade under section 14308(b)(4) of this title all such officers whom the Secretary finds to be fully qualified for promotion.".

(c) CONFORMING AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1)(A) Section 619(d) is amended by adding at the end the following new paragraph:

"(4) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 624(a)(3) of this title.".

(B) Section 14301(c) is amended by adding at the end the following new paragraph:

"(5) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 14308(b)(4) of this title.".

(2)(A) Section 624(d) is amended—

(i) in the second sentence of paragraph (1), by inserting after "on the promotion list" the following: "(including an approved all-fully-qualified-officers list, if applicable)"; and

(ii) in the second sentence of paragraph (2), by inserting after "to such grade, the officer" the following: "shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable) and".

(B) Section 14311 is amended—

(i) in subsection (a)(2), by inserting after "on the promotion list" the following: "(including an approved all-fully-qualified-officers list, if applicable)"; and

(ii) in subsection (b), by inserting in the second sentence after "on the promotion list" the following: "(including an approved all-fully-qualified-officers list, if applicable)".

(3)(A) Section 628(a)(1) is amended by inserting after "not so considered," the following: "or the name of a person that should have been placed on an all-fully-qualified-officers list under section 624(a)(3) of this title was not so placed,".

(B) Section 14502(a)(1) is amended by inserting after "because of administrative error," the following: "or whose name was not placed on an all-fully-qualified-officers list under section 14308(b)(4) of this title because of administrative error,".

(4) Section 1211(e) is amended by inserting after "a promotion list," the following: "an approved all-fully-qualified-officers list,".

(d) TECHNICAL AMENDMENTS TO STRIKE CERTAIN DOPMA REFERENCES TO REGULAR OFFICERS.—Chapter 36 of such title is amended as follows:

(1) Section 624(c) is amended—

(A) by inserting ", in the case of officers of the Army, Air Force, or Marine Corps," after "captain"; and

(B) by inserting ", in the case of officers of the Navy," after "or lieutenant" the second place it appears.

(2) Section 630 is amended by striking "regular" both places it appears.

(3) Sections 631(a) and 632(a) are each amended—

(A) by striking "Regular Army, Regular Air Force, or Regular Marine Corps" and inserting "Army, Air Force, or Marine Corps on the active-duty list";

(B) by striking "Regular Navy" and inserting "Navy on the active-duty list"; and

(C) by striking "regular" each place it appears.

(4)(A) The heading of section 630 and the item relating to that section in the table of sections at the beginning of subchapter III are each amended by striking the third word.

(B) The heading of section 631 and the item relating to that section in the table of sections at the beginning of subchapter III are each amended by striking the eighth word.

(C) The heading of section 632 and the item relating to that section in the table of sections at the beginning of subchapter III are each amended by striking the eighth and twenty-first words.

**SEC. 506. AUTHORITY TO ADJUST DATE OF RANK OF CERTAIN PROMOTIONS DELAYED BY REASON OF UNUSUAL CIRCUMSTANCES.**

(a) ACTIVE DUTY OFFICERS.—Subsection 741(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary concerned may adjust the date of rank of an officer appointed under section 624(a) of this title to a higher grade that is not a general officer or flag officer grade if the appointment of that officer to that grade is delayed from the date on which (as determined by the Secretary) it would otherwise have been made by reason of unusual circumstances (as determined by the Secretary) that cause an unintended delay in—

"(i) the processing or approval of the report of the selection board recommending the appointment of that officer to that grade; or

"(ii) the processing or approval of the promotion list established on the basis of that report.

"(B) The adjusted date of rank applicable to the grade of an officer under subparagraph (A) shall be consistent—

"(i) with the officer's position on the promotion list for that grade and competitive category when additional officers in that grade and competitive category were needed; and

"(ii) with compliance with the applicable authorized strengths for officers in that grade and competitive category.

"(C) The adjusted date of rank applicable to the grade of an officer under subparagraph (A) shall be the effective date for—

"(i) the officer's pay and allowances for that grade; and

"(ii) the officer's position on the active-duty list.

"(D) When under subparagraph (A) the Secretary concerned adjusts the date of rank of an officer in a grade to which the officer was appointed by and with the advice and consent of the Senate and the adjustment is to a date before the date of the advice and consent of the Senate to that appointment, the Secretary shall promptly transmit to the Committee on Armed Services of the Senate a notification of that adjustment. Any such notification shall include the name of the officer and a discussion of the reasons for the adjustment of date of rank.

"(E) Any adjustment in date of rank under this paragraph shall be made under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.".

(b) RESERVE OFFICERS.—(1) Section 14308(c) of such title is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

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

"(2) The date of rank of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made under section 741(d)(4) of this title in the date of rank of an officer appointed to a higher grade under section 624(a) of this title. In any use of the authority under the preceding sentence, subparagraph (C)(ii) of such section shall be applied by substituting 'reserve active-status list' for 'active-duty list'.".

(2) Paragraph (3) of such section, as redesignated by paragraph (1)(A), is amended by inserting "provided in paragraph (2) or as otherwise" after "Except as".

(c) EFFECTIVE DATE.—(1) Paragraph (4) of section 741(d) of title 10, United States Code, as added by subsection (a), and paragraph (2) of section 14308(c) of such title, as added by subsection (b), shall apply with respect to any report of a selection board recommending officers for promotion to the next higher grade that is submitted to the Secretary of the military department concerned on or after the date of the enactment of this Act.

(2) The Secretary of the military department concerned may apply the applicable paragraph referred to in paragraph (1) in the case of an appointment of an officer to a higher grade resulting from a report of a selection board submitted to the Secretary before the date of the enactment of this Act if the Secretary determines that such appointment would have been made on an earlier date that is on or after October 1, 2001, and was delayed under the circumstances specified in paragraph (4) of section 741(d) of title 10, United States Code, as added by subsection (a).

**SEC. 507. AUTHORITY FOR LIMITED EXTENSION OF MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARATION.**

The text of section 640 of title 10, United States Code, is amended to read as follows:

"(a) If the Secretary of the military department concerned determines that the evaluation of the physical condition of an 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 member's well being before the date on which the officer would otherwise be required to retire or be separated under this title, the Secretary may defer the retirement or separation of the officer under this title.

"(b) A deferral of retirement or separation under subsection (a) may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.".

**SEC. 508. AUTHORITY FOR LIMITED EXTENSION ON ACTIVE DUTY OF MEMBERS SUBJECT TO MANDATORY RETIREMENT OR SEPARATION.**

(a) SECTION 12305 STOP-LOSS AUTHORITY.—Section 12305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.".

(b) SECTION 123 STOP-LOSS AUTHORITY.—Section 123 of such title is amended by adding at the end the following new subsection:

"(d) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring

the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.".

**SEC. 509. EXEMPTION FROM CERTAIN ADMINISTRATIVE LIMITATIONS FOR RETIRED OFFICERS ORDERED TO ACTIVE DUTY AS DEFENSE OR SERVICE ATTACHÉS.**

(a) LIMITATION OF PERIOD OF RECALLED SERVICE.—Section 688(e)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.".

(b) LIMITATION ON NUMBER OF RECALLED OFFICERS ON ACTIVE DUTY.—Section 690(b)(2) of such title is amended by adding at the end the following new subparagraph:

"(E) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply with respect to officers serving on active duty as a defense attaché or service attaché on or after the date of the enactment of this Act.

**SEC. 510. OFFICER IN CHARGE OF UNITED STATES NAVY BAND.**

(a) DETAIL AND GRADE.—Section 6221 of title 10, United States Code, is amended to read as follows:

### "§ 6221. United States Navy Band; officer in charge

"(a) There is a Navy band known as the United States Navy Band.

"(b)(1) An officer of the Navy designated for limited duty under section 5589 or 5596 of this title who is serving in a grade above lieutenant may be detailed by the Secretary of the Navy as Officer in Charge of the United States Navy Band.

"(2) While serving as Officer in Charge of the United States Navy Band, an officer shall hold the grade of captain if appointed to that grade by the President, by and with the advice and consent of the Senate. Such an appointment may be made notwithstanding section 5596(d) of this title.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 565 of such title is amended to read as follows:

"6221. United States Navy Band; officer in charge.".

# Subtitle B—Reserve Component Personnel Policy

**SEC. 511. PLACEMENT ON ACTIVE-DUTY LIST OF CERTAIN RESERVE OFFICERS ON ACTIVE DUTY FOR A PERIOD OF THREE YEARS OR LESS.**

(a) CLARIFICATION OF EXEMPTION.—Section 641(1)(D) of title 10, United States Code, is amended to read as follows:

"(D) on active duty under section 12301(d) of this title, other than as provided under subparagraph (C), if the call or order to active duty, under regulations prescribed by the Secretary concerned, specifies a period of three years or less and continued placement on the reserve active-status list;".

(b) RETROACTIVE APPLICATION.—(1) The Secretary of the military department concerned may provide that an officer who was excluded from the active-duty list under section 641(1)(D) of title 10, United States Code, as amended by section 521 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–108), shall be considered to have been on the active-duty list during the period beginning on the date on which the officer was so excluded and ending on the date of the enactment of this Act.

(2) The Secretary of the military department concerned may provide that a Reserve officer who was placed on the active-duty list on or after October 30, 1997, shall be placed on the reserve active-status list if the officer otherwise meets the conditions specified in section 641(1)(D) of title 10, United States Code, as amended by subsection (a).

**SEC. 512. EXCEPTION TO BACCALAUREATE DEGREE REQUIREMENT FOR APPOINTMENT OF RESERVE OFFICERS TO GRADES ABOVE FIRST LIEUTENANT.**

(a) REAUTHORIZATION OF WAIVER AUTHORITY FOR ARMY OCS GRADUATES AND INCLUSION OF CERTAIN MARINE OFFICERS.—Section 12205 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) WAIVER AUTHORITY FOR ARMY OCS GRADUATES AND CERTAIN MARINE CORPS OFFICERS.—(1) The Secretary of the Army may waive the applicability of subsection (a) to any officer whose original appointment in the Army as a Reserve officer is through the Army Officer Candidate School program.

"(2) The Secretary of the Navy may waive the applicability of subsection (a) to any officer whose original appointment in the Marine Corps as a Reserve officer is through the Marine Corps meritorious commissioning program.

"(3) Any such waiver shall be made on a case-by-case basis, considering the individual circumstances of the officer involved, and may continue in effect for no more than two years after the waiver is granted. The Secretary concerned may provide for such a waiver to be effective before the date of the waiver, as appropriate in an individual case.".

(b) EFFECTIVE DATE.—Subsection (d) of section 12205 of title 10, United States Code, as added by subsection (a), shall apply with respect to officers appointed before, on, or after the date of the enactment of this Act.

**SEC. 513. IMPROVED DISABILITY BENEFITS FOR CERTAIN RESERVE COMPONENT MEMBERS.**

(a) MEDICAL AND DENTAL CARE.—Sections 1074a(a)(3) and 1076(a)(2)(C) of title 10, United States Code, are each amended by striking ", if the" and all that follows through "member's residence".

(b) ELIGIBILITY FOR DISABILITY RETIREMENT OR SEPARATION.—Sections 1204(2)(B)(iii) and 1206(2)(B)(iii) of title 10, United States Code, are each amended by striking ", if the" and all that follows through "member's residence".

(c) RECOVERY, CARE, AND DISPOSITION OF REMAINS.—Section 1481(a)(2)(D) of title 10, United States Code, is amended by striking ", if the site is outside reasonable commuting distance from the member's residence".

(d) ENTITLEMENT TO BASIC PAY.—Subsections (g)(1)(D) and (h)(1)(D) of section 204 of title 37, United States Code, are amended by striking ", if the site is outside reasonable commuting distance from the member's residence".

(e) COMPENSATION FOR INACTIVE-DUTY TRAINING.—Section 206(a)(3)(C) of title 37, United States Code, is amended by striking ", if the site is outside reasonable commuting distance from the member's residence".

**SEC. 514. TIME-IN-GRADE REQUIREMENT FOR RESERVE COMPONENT OFFICERS RETIRED WITH A NONSERVICE CONNECTED DISABILITY.**

Section 1370(d)(3)(B) of title 10, United States Code, is amended to read as follows:

"(B) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in grade may be credited with satisfactory service in the grade in which serving at the time of transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade, if that person is transferred from an active status or discharged as a reserve commissioned officer—

"(i) solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service; or

"(ii) because the person no longer meets the qualifications for membership in the Ready Reserve solely because of a physical disability, as determined, at a minimum, by a medical evaluation board and at the time of such transfer or discharge such person (pursuant to section 12731b of this title or otherwise) meets the service requirements established by section 12731(a) of this title for eligibility for retired pay under chapter 1223 of this title, unless the disability is described in section 12731b of this title.".

**SEC. 515. EQUAL TREATMENT OF RESERVES AND FULL-TIME ACTIVE DUTY MEMBERS FOR PURPOSES OF MANAGING PERSONNEL DEPLOYMENTS.**

(a) RESIDENCE OF RESERVES AT HOME STATION.—Paragraph (2) of section 991(b) of title 10, United States Code, is amended to read as follows:

"(2) In the case of a member of a reserve component who is performing active service pursuant to orders that do not establish a permanent change of station, the housing referred to in paragraph

(1) is any housing (which may include the member's residence) that the member usually occupies for use during off-duty time when on garrison duty at the member's permanent duty station or homeport, as the case may be.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to duty performed on or after October 1, 2001.

**SEC. 516. MODIFICATION OF PHYSICAL EXAMINATION REQUIREMENTS FOR MEMBERS OF THE INDIVIDUAL READY RESERVE.**

(a) IRR REQUIREMENT.—Section 10206 of title 10, United States Code, is amended—

(1) in the matter in subsection (a) preceding paragraph (1), by striking "Ready Reserve" and inserting "Selected Reserve";

(2) by designating the second sentence of subsection (a) as subsection (c);

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

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

"(b) A member of the Individual Ready Reserve or inactive National Guard shall be examined for physical fitness as necessary to determine the member's physical fitness for—

"(1) military duty or promotion;

"(2) attendance at a school of the armed forces; or

"(3) other action related to career progression.".

(b) TECHNICAL AMENDMENT.—Subsection (a)(1) of such section is amended by striking "his" and inserting "the member's".

**SEC. 517. RETIREMENT OF RESERVE MEMBERS WITHOUT REQUIREMENT FOR FORMAL APPLICATION OR REQUEST.**

(a) RETIRED RESERVE.—Section 10154(2) of title 10, United States Code, is amended by striking "upon their request".

(b) RETIREMENT FOR FAILURE OF SELECTION OF PROMOTION.—(1) Paragraph (2) of section 14513 of such title is amended by striking ", if the officer is qualified and applies for such transfer" and inserting "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve".

(2)(A) The heading for such section is amended to read as follows:

**"§ 14513. Failure of selection for promotion: transfer, retirement, or discharge"**.

(B) The item relating to such section in the table of sections at the beginning of chapter 1407 of such title is amended to read as follows:

"14513. Failure of selection for promotion: transfer, retirement, or discharge.".

(c) RETIREMENT FOR YEARS OF SERVICE OR AFTER SELECTION FOR EARLY REMOVAL.—Section 14514 of such title is amended—

(1) in paragraph (1), by striking ", if the officer is qualified and applies for such transfer" and inserting "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve"; and

(2) by striking paragraph (2) and inserting the following:

"(2) be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.".

(d) RETIREMENT FOR AGE.—Section 14515 of such title is amended—

(1) in paragraph (1), by striking ", if the officer is qualified and applies for such transfer" and inserting "if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve"; and

(2) by striking paragraph (2) and inserting the following:

"(2) be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.".

(e) DISCHARGE OR RETIREMENT OF WARRANT OFFICERS FOR YEARS OF SERVICE OR AGE.—(1) Chapter 1207 of such title is amended by adding at the end the following new section:

**"§ 12244. Warrant officers: discharge or retirement for years of service or for age**

"Each reserve warrant officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

"(1) be transferred to the Retired Reserve if the warrant officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

"(2) be discharged if the warrant officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.".

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

"12244. Warrant officers: discharge or retirement for years of service or for age.".

(f) DISCHARGE OR RETIREMENT OF ENLISTED MEMBERS FOR YEARS OF SERVICE OR AGE.—(1) Chapter 1203 of such title is amended by adding at the end the following new section:

**"§ 12108. Enlisted members: discharge or retirement for years of service or for age**

"Each reserve enlisted member of the Army, Navy, Air Force, or Marine Corps who is in an active status and has reached the maximum years of service or age prescribed by the Secretary concerned shall—

"(1) be transferred to the Retired Reserve if the member is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

"(2) be discharged if the member is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.".

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

"12108. Enlisted members: discharge or retirement for years of service or for age.".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act.

**SEC. 518. SPACE-REQUIRED TRAVEL BY RESERVES ON MILITARY AIRCRAFT.**

(a) CORRECTION OF IMPAIRMENT TO AUTHORIZED TRAVEL WITH ALLOWANCES.—Subsection (a) of section 18505 of title 10, United States Code, is amended by striking "annual training duty or" each place it appears.

(b) CONFORMING AMENDMENTS.—The heading for such section, and the item relating to such section in the table of sections at the beginning of chapter 1805 of such title, are each amended by striking the fourth, fifth, sixth, and seventh words.

**SEC. 519. PAYMENT OF FEDERAL EMPLOYEE HEALTH BENEFIT PROGRAM PREMIUMS FOR CERTAIN RESERVISTS CALLED TO ACTIVE DUTY IN SUPPORT OF CONTINGENCY OPERATIONS.**

(a) IN GENERAL.—Subsection (e) of section 8906 of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) An employing agency may pay both the employee and Government contributions, and any additional administrative expenses otherwise chargeable to the employee, with respect to health care coverage for an employee described in subparagraph (B) and the family of such employee.

"(B) An employee referred to in subparagraph (A) is an employee who—

"(i) is enrolled in a health benefits plan under this chapter;

"(ii) is a member of a reserve component of the armed forces;

"(iii) is called or ordered to active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10);

"(iv) is placed on leave without pay or separated from service to perform active duty; and

"(v) serves on active duty for a period of more than 30 consecutive days.

"(C) Notwithstanding the one-year limitation on coverage described in paragraph (1)(A), payment may be made under this paragraph for a period not to exceed 18 months.".

(b) CONFORMING AMENDMENT.—The matter preceding paragraph (1) in subsection (f) of such section is amended to read as follows:

"(f) The Government contribution, and any additional payments under subsection (e)(3)(A), for health benefits for an employee shall be paid—".

(c) APPLICABILITY.—The amendments made by this section apply with respect to employees called to active duty on or after December 8, 1995, and an agency may make retroactive payments to such employees for premiums paid on or after such date.

# Subtitle C—Joint Specialty Officers and Joint Professional Military Education

**SEC. 521. NOMINATIONS AND PROMOTIONS FOR JOINT SPECIALTY OFFICERS.**

(a) SELECTION OF OFFICERS FOR THE JOINT SPECIALITY.—Paragraph (2) of section 661(b) of title 10, United States Code, is amended by striking "The Secretaries" and all that follows through "officers—" and inserting "Each officer on the active-duty list on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 who has not before that date been nominated for the joint specialty by the Secretary of a military department, and each officer who is placed on the active-duty list after such date, who meets the requirements of subsection (c) shall automatically be considered to have been nominated for the joint specialty. From among those officers considered to be nominated for the joint specialty, the Secretary may select for the joint specialty only officers—".

(b) PROMOTION RATE FOR OFFICERS WITH THE JOINT SPECIALTY.—Paragraph (2) of section 662(a) of such title is amended by striking "promoted at a rate" and inserting "promoted—

"(A) during the three-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, at a rate not less than the rate for officers of the same armed force in the same grade and competitive category; and

"(B) after the end of the period specified in subparagraph (A), at a rate".

**SEC. 522. JOINT DUTY CREDIT.**

Paragraph (4) of section 664(i) of title 10, United States Code, is amended—

(1) in subparagraph (E), by striking "The" and inserting "Except as provided in subparagraph (F), the"; and

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

"(F) Service in a temporary joint task force assignment not involved in combat or combat-related operations may not be credited for the purposes of joint duty, unless, and only if—

"(i) the service of the officer and the nature of the joint task force not only meet all criteria of this section, except subparagraph (E), but also any additional criteria the Secretary may establish;

"(ii) the Secretary has specifically approved the operation conducted by the joint task force as one that qualifies for joint service credit, and notifies Congress upon each approval, providing the criteria that led to that approval; and

"(iii) the operation is conducted by the joint task force in an environment where an extremely fragile state of peace and high potential for hostilities coexist.".

**SEC. 523. RETROACTIVE JOINT SERVICE CREDIT FOR DUTY IN CERTAIN JOINT TASK FORCES.**

(a) AUTHORITY.—In accordance with section 664(i) of title 10, United States Code, as amended by section 522, the Secretary

of Defense may award joint service credit to any officer who served on the staff of a United States joint task force headquarters in an operation and during the period set forth in subsection (b) and who meets the criteria specified in such section. To determine which officers qualify for such retroactive credit, the Secretary shall undertake a case-by-case review of the records of officers.

(b) ELIGIBLE OPERATIONS.—Service in the following operations, during the specified periods, may be counted for credit under subsection (a):

(1) Operation Northern Watch, during the period beginning on August 1, 1992, and ending on a date to be determined.

(2) Operation Southern Watch, during the period beginning on August 27, 1992, and ending on a date to be determined.

(3) Operation Able Sentry, during the period beginning on June 26, 1993, and ending on February 28, 1999.

(4) Operation Joint Endeavor, during the period beginning on December 25, 1995, and ending on December 19, 1996.

(5) Operation Joint Guard, during the period beginning on December 20, 1996, and ending on June 20, 1998.

(6) Operation Desert Thunder, beginning on January 24, 1998, and ending on December 15, 1998.

(7) Operation Joint Forge, beginning on June 20, 1998, and ending on June 10, 1999.

(8) Operation Noble Anvil, beginning on March 24, 1999, and ending on July 20, 1999.

(9) Operation Joint Guardian, beginning on June 11, 1999, and ending on a date to be determined.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report of the numbers, by service, grade, and operation, of the officers given joint service credit in accordance with this section.

**SEC. 524. REVISION TO ANNUAL REPORT ON JOINT OFFICER MANAGEMENT.**

Section 667 of title 10, United States Code, is amended—

(1) in paragraph (1)—

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

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

"(B) The number of officers who meet the criteria for selection for the joint specialty but were not selected, together with the reasons why.";

(2) by amending paragraph (2) to read as follows:

"(2) The number of officers with the joint specialty, shown by grade and branch or specialty and by education.";

(3) in paragraph (3)—

(A) in subparagraph (A) and (B), by striking "nominated" and inserting "selected";

(B) by inserting "and" at the end of subparagraph (D);

(C) by striking subparagraph (E); and

(D) by redesignating subparagraph (F) as subparagraph (E);

(4) in paragraph (4)(A), by striking "nominated" and inserting "selected";

(5) in paragraph (14)—

(A) by inserting "(A)" after "(14)"; and

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

"(B) An assessment of the extent to which the Secretary of each military department is assigning personnel to joint duty assignments in accordance with this chapter and the policies, procedures, and practices established by the Secretary of Defense under section 661(a) of this title."; and

(6) in paragraph (16), by striking "section 664(i)" in the matter preceding subparagraph (A) and in subparagraph (B) and inserting "subparagraphs (E) and (F) of section 664(i)(4)".

**SEC. 525. REQUIREMENT FOR SELECTION FOR JOINT SPECIALTY BEFORE PROMOTION TO GENERAL OR FLAG OFFICER GRADE.**

(a) REQUIREMENT.—Subsection (a) of section 619a of title 10, United States Code, is amended by striking "unless" and all that follows and inserting "unless—

"(1) the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title); and

"(2) for appointments after September 30, 2007, the officer has been selected for the joint specialty in accordance with section 661 of this title.".

(b) WAIVER AUTHORITY.—Subsection (b) of that section is amended by striking "may waive subsection (a) in the following circumstances:" and inserting "may waive paragraph (1) or paragraph (2) of subsection (a), or both paragraphs (1) and (2) of subsection (a), in the following circumstances:".

(c) PROPOSED LEGISLATIVE CHANGES.—Not later than December 1, 2002, the Secretary of Defense shall submit to Congress a draft proposal for such legislative changes as the Secretary considers needed to implement the amendment made by subsections (a) and (b).

**SEC. 526. INDEPENDENT STUDY OF JOINT OFFICER MANAGEMENT AND JOINT PROFESSIONAL MILITARY EDUCATION REFORMS.**

(a) STUDY.—The Secretary of Defense shall provide for an independent study of the joint officer management system and the joint professional military education system. The Secretary shall ensure that the entity conducting the study is provided such information and support as required. The Secretary shall include in the contract for the study a requirement that the entity conducting the study submit a report to Congress on the study not later than one year after the date of the enactment of this Act.

(b) MATTERS TO BE INCLUDED WITH RESPECT TO JOINT OFFICER MANAGEMENT.—With respect to the joint officer management system, the entity conducting the independent study shall provide for the following:

(1) Assessment of implications for joint officer education, development, and management that would result from proposed joint organizational operational concepts (such as standing joint task forces) and from emerging officer management and personnel reforms (such as longer careers and more stabilization), that are under consideration by the Secretary of Defense.

(2) Assessment of the effectiveness of the current joint officer management system to develop and use joint specialty

qualified officers in meeting both current and future requirements for joint specialty officers.

(3) Recommendations, based on empirical and other data, to improve the effectiveness of the joint officer management system, especially with regard to the following:

(A) The proper mix and sequencing of education assignments and experience assignments (to include, with respect to both types of assignments, consideration of the type and quality, and the length, of such assignments) to qualify an officer as a joint specialty officer, as well as the implications of adopting a variable joint duty tour length and the advisability and implications of a system of qualifying officers as joint specialty officers that uses multiple shorter qualification tracks to selection as a joint specialty officer than are now codified.

(B) The system of using joint specialty officers, including the continued utility of such measures as—

(i) the required fill of positions on the joint duty assignment list, as specified in paragraphs (1) and (4) of section 661(d) of title 10, United States Code;

(ii) the fill by such officers of a required number of critical billets, as prescribed by section 661(d)(2) of such title;

(iii) the mandated fill by general and flag officers of a minimum number of critical billets, as prescribed by section 661(d)(3) of such title; and

(iv) current promotion policy objectives for officers with the joint specialty, officers serving on the Joint Staff, and officers serving in joint duty assignment list positions, as prescribed by section 662 of such title.

(C) Changes in policy and law required to provide officers the required joint specialty qualification before promotion to general or flag officer grade.

(D) A determination of the number of reserve component officers who would be qualified for designation as a joint specialty officer by reason of experience or education if the standards of existing law, including waiver authorities, were applied to them, and recommendations for a process for qualifying and employing future reserve component officers as joint specialty officers.

(c) MATTERS TO BE INCLUDED WITH RESPECT TO JOINT PROFESSIONAL MILITARY EDUCATION.—With respect to the joint professional military education system, the entity conducting the independent study shall provide for the following:

(1) The number of officers who under the current system (A) qualified as joint specialty officers by attending joint professional military education programs before their first joint duty assignment, (B) qualified as joint specialty officers after arriving at their first joint duty assignment but before completing that assignment, and (C) qualified as joint specialty officers without any joint professional military education.

(2) Recommended initiatives (include changes in officer personnel management law, if necessary) to provide incentives and otherwise facilitate attendance at joint professional military education programs before an officer's first joint duty assignment.

(3) Recommended goals for attendance at the Joint Forces Staff College en route to a first joint duty assignment.

(4) An assessment of the continuing utility of statutory requirements for use of officers following joint professional military education, as prescribed by section 662(d) of title 10, United States Code.

(5) Determination of whether joint professional military education programs should remain principally an in-resident, multi-service experience and what role non-resident or distributive learning can or should play in future joint professional military education programs.

(6) Examination of options for the length of and increased capacity at Joint Forces Staff College, and whether other in-resident joint professional military education sources should be opened, and if opened, how they might be properly accredited and overseen to provide instruction at the level of the program designated as "joint professional military education".

(d) CHAIRMAN OF JOINT CHIEFS OF STAFF.—With respect to the roles of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, the entity conducting the independent study shall—

(1) provide for an evaluation of the current roles of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and joint staff in law, policy, and implementation with regard to establishing and maintaining oversight of joint officer management, career guidelines, and joint professional military education; and

(2) make recommendations to improve and strengthen those roles.

(e) REQUIREMENTS FOR STUDY ENTITY.—In providing for the independent study required by subsection (a), the Secretary of Defense shall ensure that the entity conducting the study—

(1) is not a Department of Defense organization; and

(2) shall, at a minimum, involve in the study, in an integral way, the following persons:

(A) The Chairman of the Joint Chiefs of Staff and available former Chairmen of the Joint Chiefs of Staff.

(B) Members and former members of the Joint Staff, the Armed Forces, the Congress, and congressional staff who are or who have been significantly involved in the development, implementation, or modification of joint officer management and joint professional military education.

(C) Experts in joint officer management and education from civilian academic and research centers.

**SEC. 527. PROFESSIONAL DEVELOPMENT EDUCATION.**

(a) EXECUTIVE AGENT FOR FUNDING.—(1) Effective beginning with fiscal year 2003, the Secretary of Defense shall be the executive agent for funding professional development education operations of all components of the National Defense University, including the Joint Forces Staff College. The Secretary may not delegate the Secretary's functions and responsibilities under the preceding sentence to the Secretary of a military department.

(2) Nothing in this subsection affects policies in effect on the date of the enactment of this Act with respect to—

(A) the reporting of the President of the National Defense University to the Chairman of the Joint Chiefs of Staff; or

(B) provision of logistical and base operations support for components of the National Defense University by the military departments.

(b) PREPARATION OF BUDGET REQUESTS.—Section 2162(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

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

"(2) As executive agent for funding professional development education at the National Defense University, including the Joint Forces Staff College, the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall prepare the annual budget for professional development education operations at the National Defense University and set forth that request as a separate budget request in the materials submitted to Congress in support of the budget request for the Department of Defense. Nothing in the preceding sentence affects policies in effect on the date of the enactment of this paragraph with respect to budgeting for the funding of logistical and base operations support for components of the National Defense University through the military departments.".

(c) FUNDING SOURCE.—(1) Section 2165 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) SOURCE OF FUNDS FOR PROFESSIONAL DEVELOPMENT EDUCATION OPERATIONS.—Funding for the professional development education operations of the National Defense University shall be provided from funds made available to the Secretary of Defense from the annual appropriation 'Operation and Maintenance, Defense-wide'.".

(2) Subsection (d) of section 2165 of title 10, United States Code, as added by paragraph (1), shall become effective beginning with fiscal year 2003.

**SEC. 528. AUTHORITY FOR NATIONAL DEFENSE UNIVERSITY TO ENROLL CERTAIN PRIVATE SECTOR CIVILIANS.**

(a) IN GENERAL.—(1) Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

### "§ 2167. National Defense University: admission of private sector civilians to professional military education program

"(a) AUTHORITY FOR ADMISSION.—The Secretary of Defense may permit eligible private sector employees who work in organizations relevant to national security to receive instruction at the National Defense University in accordance with this section. No more than the equivalent of 10 full-time student positions may be filled at any one time by private sector employees enrolled under this section. Upon successful completion of the course of instruction in which enrolled, any such private sector employee may be awarded an appropriate diploma or degree under section 2165 of this title.

"(b) ELIGIBLE PRIVATE SECTOR EMPLOYEES.—For purposes of this section, an eligible private sector employee is an individual employed by a private firm that is engaged in providing to the Department of Defense or other Government departments or agencies significant and substantial defense-related systems, products,

or services or whose work product is relevant to national security policy or strategy. A private sector employee admitted for instruction at the National Defense University remains eligible for such instruction only so long as that person remains employed by the same firm.

"(c) ANNUAL CERTIFICATION BY SECRETARY OF DEFENSE.—Private sector employees may receive instruction at the National Defense University during any academic year only if, before the start of that academic year, the Secretary of Defense determines, and certifies to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, that providing instruction to private sector employees under this section during that year will further national security interests of the United States.

"(d) PROGRAM REQUIREMENTS.—The Secretary of Defense shall ensure that—

"(1) the curriculum for the professional military education program in which private sector employees may be enrolled under this section is not readily available through other schools and concentrates on national security relevant issues; and

"(2) the course offerings at the National Defense University continue to be determined solely by the needs of the Department of Defense.

"(e) TUITION.—The President of the National Defense University shall charge students enrolled under this section a rate—

"(1) that is at least the rate charged for employees of the United States outside the Department of Defense, less infrastructure costs, and

"(2) that considers the value to the school and course of the private sector student.

"(f) STANDARDS OF CONDUCT.—While receiving instruction at the National Defense University, students enrolled under this section, to the extent practicable, are subject to the same regulations governing academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the university.

"(g) USE OF FUNDS.—Amounts received by the National Defense University for instruction of students enrolled under this section shall be retained by the university to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the university.".

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

"2167. National Defense University: admission of private sector civilians to professional military education program.".

(b) EFFECTIVE DATE.—Section 2167 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 2002.

**SEC. 529. CONTINUATION OF RESERVE COMPONENT PROFESSIONAL MILITARY EDUCATION TEST.**

(a) CONTINUATION OF CONCEPT VALIDATION TEST.—During fiscal year 2002, the Secretary of Defense shall continue the concept validation test of Reserve component joint professional military education that was begun in fiscal year 2001 at the National Defense University.

(b) PILOT PROGRAM.—If the Secretary of Defense determines that the results of the concept validation test referred to in subsection (a) warrant conducting a pilot program of the concept that was the subject of the test, the Secretary shall conduct such a pilot program during fiscal year 2003.

(c) FUNDING.—The Secretary shall provide funds for the concept validation test under subsection (a) and for any pilot program under subsection (b) from funds appropriated to the Secretary of Defense in addition to those appropriated for operations of the National Defense University.

# Subtitle D—Military Education and Training

**SEC. 531. DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER.**

(a) AUTHORITY TO CONFER ASSOCIATE OF ARTS DEGREE.—Chapter 108 of title 10, United States Code, is amended by adding after section 2167, as added by section 528(a)(1), the following new section:

**"§ 2168. Defense Language Institute Foreign Language Center: degree of Associate of Arts in foreign language**

"(a) Subject to subsection (b), the Commandant of the Defense Language Institute may confer an Associate of Arts degree in a foreign language upon any graduate of the Foreign Language Center of the Institute who fulfills the requirements for that degree.

"(b) A degree may be conferred upon a student under this section only if the Provost of the Center certifies to the Commandant that the student has satisfied all the requirements prescribed for the degree.

"(c) The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2167, as added by section 528(a)(2), the following new item:

"2168. Defense Language Institute Foreign Language Center: degree of Associate of Arts in foreign language.".

**SEC. 532. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD DEGREE OF MASTER OF STRATEGIC STUDIES.**

(a) MARINE CORPS WAR COLLEGE DEGREE.—Section 7102 of title 10, 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):

"(b) MARINE CORPS WAR COLLEGE.—Upon the recommendation of the Director and faculty of the Marine Corps War College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of strategic studies upon graduates of the Marine Corps War College who fulfill the requirements for that degree.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of such section is amended by striking "upon graduates" and all that follows

and inserting "upon graduates of the Command and Staff College who fulfill the requirements for that degree.".

(2) Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by striking "subsection (a)" and inserting "subsections (a) and (b)".

(3)(A) The heading of such section is amended to read as follows:

**"§ 7102. Marine Corps University: masters degrees; board of advisors"**.

(B) The item relating to such section in the table of sections at the beginning of chapter 609 of such title is amended to read as follows:

"7102. Marine Corps University: masters degrees; board of advisors.".

(c) CODIFICATION OF REQUIREMENT FOR BOARD OF ADVISORS.—(1) Section 7102 of title 10, United States Code, as amended by subsections (a) and (b), is further amended by adding at the end the following new subsection:

"(d) BOARD OF ADVISORS.—The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.".

(2) Section 912 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 7102 note) is repealed.

(d) EFFECTIVE DATE.—The authority to confer the degree of master of strategic studies under section 7102(b) of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Marine Corps War College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts. Upon receipt of such a certification, the President of the University shall promptly transmit a copy of the certification to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives.

**SEC. 533. FOREIGN STUDENTS ATTENDING THE SERVICE ACADEMIES.**

(a) UNITED STATES MILITARY ACADEMY.—(1) Subsection (a)(1) of section 4344 of title 10, United States Code, is amended by striking "not more than 40 persons" and inserting "not more than 60 persons".

(2) Subsection (b) of such section is amended—

(A) in paragraph (2), by striking "unless a written waiver of reimbursement is granted by the Secretary of Defense" in the first sentence; and

(B) by striking paragraph (3) and inserting the following:

"(3) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a cadet under paragraph (2). In the case of a partial waiver, the Secretary shall establish the amount waived.".

(3) The amendments made by paragraph (2) shall not apply with respect to any person who entered the United States Military Academy to receive instruction under section 4344 of title 10, United States Code, before the date of the enactment of this Act.

(b) UNITED STATES NAVAL ACADEMY.—(1) Subsection (a)(1) of section 6957 of such title is amended by striking "not more than 40 persons" and inserting "not more than 60 persons".

(2) Subsection (b) of such section is amended—

(A) in paragraph (2), by striking "unless a written waiver of reimbursement is granted by the Secretary of Defense" in the first sentence; and

(B) by striking paragraph (3) and inserting the following:

"(3) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a midshipman under paragraph (2). In the case of a partial waiver, the Secretary shall establish the amount waived.".

(3) The amendments made by paragraph (2) shall not apply with respect to any person who entered the United States Naval Academy to receive instruction under section 6957 of title 10, United States Code, before the date of the enactment of this Act.

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Subsection (a)(1) of section 9344 of such title is amended by striking "not more than 40 persons" and inserting "not more than 60 persons".

(2) Subsection (b) of such section is amended—

(A) in paragraph (2), by striking "unless a written waiver of reimbursement is granted by the Secretary of Defense" in the first sentence; and

(B) by striking paragraph (3) and inserting the following:

"(3) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a cadet under paragraph (2). In the case of a partial waiver, the Secretary shall establish the amount waived.".

(3) The amendments made by paragraph (2) shall not apply with respect to any person who entered the United States Air Force Academy to receive instruction under section 9344 of title 10, United States Code, before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall not apply with respect to any academic year that began before the date of the enactment of this Act.

**SEC. 534. INCREASE IN MAXIMUM AGE FOR APPOINTMENT AS A CADET OR MIDSHIPMAN IN SENIOR RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIP PROGRAMS.**

(a) GENERAL ROTC SCHOLARSHIP PROGRAM.—Section 2107(a) of title 10, United States Code, is amended—

(1) by striking "27 years of age on June 30" and inserting "31 years of age on December 31"; and

(2) by striking ", except that" and all that follows through "on such date" the second place it appears.

(b) ARMY RESERVE AND ARMY NATIONAL GUARD ROTC SCHOLARSHIP PROGRAM.—Section 2107a(a)(1) of such title is amended—

(1) by striking "27 years of age on June 30" and inserting "31 years of age on December 31"; and

(2) by striking ", except that" and all that follows through "on such date" the second place it appears.

**SEC. 535. PARTICIPATION OF REGULAR ENLISTED MEMBERS OF THE ARMED FORCES IN SENIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM.**

(a) ELIGIBILITY.—Section 2104(b)(3) of title 10, United States Code, is amended by striking "a reserve component of".

(b) PAY RATE WHILE ON FIELD TRAINING OR PRACTICE CRUISE.—Section 209(c) of title 37, United States Code, is amended by inserting before the period at the end the following: ", except that the rate for a cadet or midshipman who is a member of the regular component of an armed force shall be the rate of basic pay applicable to the member under section 203 of this title".

**SEC. 536. AUTHORITY TO MODIFY THE SERVICE OBLIGATION OF CERTAIN ROTC CADETS IN MILITARY JUNIOR COLLEGES RECEIVING FINANCIAL ASSISTANCE.**

(a) AUTHORITY TO MODIFY AGREEMENTS.—Subsection (b) of section 2107a of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as subparagraphs (A), (B), (C), (D), (E), and (F), respectively;

(3) by designating the sentence following subparagraph (F), as so redesignated, as paragraph (2); and

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

"(3) In the case of a cadet under this section at a military junior college, the Secretary may, at any time and with the consent of the cadet concerned, modify an agreement described in paragraph (1)(F) submitted by the cadet to reduce or eliminate the troop program unit service obligation specified in the agreement and to establish, in lieu of that obligation, an active duty service obligation. Such a modification may be made only if the Secretary determines that it is in the best interests of the United States to do so.".

(b) RETROACTIVE APPLICATION.—The authority of the Secretary of Defense under paragraph (3) of section 2107a(b) of title 10, United States Code, as added by subsection (a), may be exercised with regard to any agreement described in paragraph (1)(F) of such section (including agreements related to participation in the Advanced Course of the Army Reserve Officers' Training Corps at a military college or civilian institution) that was entered into during the period beginning on January 1, 1991, and ending on July 12, 2000 (in addition to any agreement described in that paragraph that is entered into on or after the date of the enactment of this Act).

(c) TECHNICAL AMENDMENT.—Subsection (h) of such section is amended by striking "military college" in the second sentence and inserting "military junior college".

**SEC. 537. REPEAL OF LIMITATION ON NUMBER OF JUNIOR RESERVE OFFICERS' TRAINING CORPS UNITS.**

Section 2031(a)(1) of title 10, United States Code, is amended by striking the second sentence.

**SEC. 538. MODIFICATION OF NURSE OFFICER CANDIDATE ACCESSION PROGRAM RESTRICTION ON STUDENTS ATTENDING EDUCATIONAL INSTITUTIONS WITH SENIOR RESERVE OFFICERS' TRAINING PROGRAMS.**

Section 2130a of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking "that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title"; and

(2) in subsection (b)(1), by inserting before the semicolon at the end "or that has a Senior Reserve Officers' Training Program for which the student is ineligible".

**SEC. 539. RESERVE HEALTH PROFESSIONALS STIPEND PROGRAM EXPANSION.**

(a) PURPOSE OF PROGRAM.—Subsection (a) of section 16201 of title 10, United States Code, is amended—

(1) by striking "specialties critically needed in wartime";

(2) by striking "training in such specialties" and inserting "training that leads to a degree in medicine or dentistry or training in a health professions specialty that is critically needed in wartime"; and

(3) by striking "training in certain health care specialties" and inserting "health care education and training".

(b) MEDICAL AND DENTAL STUDENT STIPEND.—Such section is further 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) MEDICAL AND DENTAL SCHOOL STUDENTS.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) is eligible to be appointed as an officer in a reserve component;

"(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in medicine or dentistry;

"(C) signs an agreement that, unless sooner separated, the person will—

"(i) complete the educational phase of the program;

"(ii) accept a reappointment or redesignation within the person's reserve component, if tendered, based upon the person's health profession, following satisfactory completion of the educational and intern programs; and

"(iii) participate in a residency program; and

"(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

"(2) Under the agreement—

"(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (f), for the period or the remainder of the period that the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

"(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve in the Selected Reserve, upon successful completion of the program, for the period of service applicable under paragraph (3).

"(3)(A) Subject to subparagraph (B), the period for which a participant is required to serve in the Selected Reserve under the agreement pursuant to paragraph (2)(D) shall be one year for each period of six months, or part thereof, for which the participant is provided a stipend pursuant to the agreement.

"(B) In the case of a participant who enters into a subsequent agreement under subsection (c) and successfully completes residency training in a specialty designated by the Secretary of Defense as a specialty critically needed by the military department in wartime, the requirement to serve in the Selected Reserve may be reduced to one year for each year, or part thereof, for which the stipend was provided while enrolled in medical or dental school.".

(c) WARTIME CRITICAL SKILLS.—Subsection (c) of such section (as redesignated by subsection (b)(1)) is amended—

(1) by inserting "WARTIME" after "CRITICAL" in the heading; and

(2) by inserting "or has been appointed as a medical or dental officer in the Reserve of the armed force concerned" in paragraph (1)(B) before the semicolon at the end.

(d) SERVICE OBLIGATION REQUIREMENT.—Paragraph (2)(D) of subsection (c) of such section (as redesignated by subsection (b)(1)) and paragraph (2)(D) of subsection (d) of such section (as so redesignated) are amended by striking "two years in the Ready Reserve for each year," and inserting "one year in the Ready Reserve for each six months,".

(e) CROSS-REFERENCE.—Paragraph (2)(A) of subsection (c) of such section (as redesignated by subsection (b)(1)) and paragraph (2)(A) of subsection (d) of such section (as so redesignated) are amended by striking "subsection (e)" and inserting "subsection (f)".

**SEC. 540. HOUSING ALLOWANCE FOR THE CHAPLAIN FOR THE CORPS OF CADETS AT THE UNITED STATES MILITARY ACADEMY.**

(a) AUTHORITY.—The second sentence of section 4337 of title 10, United States Code, is amended by striking "the same allowances" and all that follows through "captain" and inserting "a monthly housing allowance in the same amount as the basic allowance for housing allowed to a lieutenant colonel".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

# Subtitle E—Recruiting and Accession Programs

**SEC. 541. 18-MONTH ENLISTMENT PILOT PROGRAM.**

(a) IN GENERAL.—(1) Chapter 333 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 3264. 18-month enlistment pilot program**

"(a) During the pilot program period, the Secretary of the Army shall carry out a pilot program with the objective of increasing participation of prior service persons in the Selected Reserve and providing assistance in building the pool of participants in the Individual Ready Reserve.

"(b) Under the program, the Secretary may, notwithstanding section 505(c) of this title, accept persons for original enlistment

in the Army for a term of enlistment consisting of 18 months service on active duty, to be followed by three years of service in the Selected Reserve and then service in the Individual Ready Reserve to complete the military service obligation.

"(c) Under regulations and conditions established by the Secretary of the Army, a member enlisting under this section may, at the end of the 18-month period of service on active duty under that enlistment, be permitted to reenlist for continued service on active duty in lieu of the service in the Selected Reserve and the Individual Ready Reserve otherwise required under the terms of the member's enlistment.

"(d) No more than 10,000 persons may be accepted for enlistment in the Army through the program under this section.

"(e) A person enlisting in the Army through the program under this section is eligible for an enlistment bonus under section 309 of title 37, notwithstanding the enlistment time period specified in subsection (a) of that section.

"(f) For purposes of this section, the pilot program period is the period beginning on the date selected by the Secretary of the Army for the commencement of the pilot program, which date shall be not later than October 1, 2003, and ending on December 31, 2007.

"(g) Not later than December 31, 2007, and December 31, 2012, the Secretary of the Army 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 program under this section. In each such report, the Secretary shall set forth the views of the Secretary on the success of the program in meeting the objectives stated in subsection (a) and whether the program should be continued and, if so, whether it should be modified or expanded.".

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

"3264. 18-month enlistment pilot program.".

(b) IMPLEMENTATION REPORT.—The Secretary of the Army 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 Secretary's plan for implementation of section 3264 of title 10, United States Code, as added by subsection (a). Such report shall be submitted not later than March 1, 2002.

**SEC. 542. IMPROVED BENEFITS UNDER THE ARMY COLLEGE FIRST PROGRAM.**

(a) INCREASED MAXIMUM PERIOD OF DELAYED ENTRY.—Section 573 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 623; 10 U.S.C. 513 note) is amended—

(1) in subsection (b)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(b) DELAYED ENTRY WITH ALLOWANCE FOR HIGHER EDUCATION.—Under the pilot program, the Secretary may—

"(1) exercise the authority under section 513 of title 10, United States Code—";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and realigning those subparagraphs four ems from the left margin;

(C) at the end of subparagraph (A), as so redesignated, by inserting "and" after the semicolon; and

(D) in subparagraph (B), as so redesignated, by striking "two years after the date of such enlistment as a Reserve under paragraph (1)" and inserting "the maximum period of delay determined for that person under subsection (c)"; and

(2) in subsection (c)—

(A) by striking "paragraph (2)" and inserting "paragraph (1)(B)";

(B) by striking "two-year period" and inserting "30-month period"; and

(C) by striking "paragraph (1)" and inserting "paragraph (1)(A)".

(b) ALLOWANCE ELIGIBILITY AND AMOUNT.—(1) Such section is further amended—

(A) in subsection (b), by striking paragraph (3) and inserting the following:

"(2) subject to paragraph (2) of subsection (d) and except as provided in paragraph (3) of that subsection, pay an allowance to a person accepted for enlistment under paragraph (1)(A) for each month of the period during which that person is enrolled in and pursuing a program described in paragraph (1)(B)"; and

(B) in subsection (d)—

(i) by redesignating paragraph (2) as paragraph (4);

(ii) by striking paragraph (1) and inserting the following new paragraphs:

"(1) The monthly allowance paid under subsection (b)(2) shall be equal to the amount of the subsistence allowance provided for certain members of the Senior Reserve Officers' Training Corps with the corresponding number of years of participation under section 209(a) of title 37, United States Code.

"(2) An allowance may not be paid to a person under this section for more than 24 months.

"(3) A member of the Selected Reserve of a reserve component may be paid an allowance under this section only for months during which the member performs satisfactorily as a member of a unit of the reserve component that trains as prescribed in section 10147(a)(1) of title 10, United States Code, or section 502(a) of title 32, United States Code. Satisfactory performance shall be determined under regulations prescribed by the Secretary.".

(2) The heading for such subsection is amended by striking "AMOUNT OF".

(c) INELIGIBILITY FOR LOAN REPAYMENTS; RECOUPMENT.—Such section is further amended—

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

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

"(e) INELIGIBILITY FOR LOAN REPAYMENTS.—A person who has received an allowance under this section is not eligible for any benefits under chapter 109 of title 10, United States Code.

"(f) RECOUPMENT OF ALLOWANCE.—(1) A person who, after receiving an allowance under this section, fails to complete the total period of service required of that person in connection with delayed entry authorized for the person under section 513 of title

10, United States Code, shall repay the United States the amount which bears the same ratio to the total amount of that allowance paid to the person as the unserved part of the total required period of service bears to the total period.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge of a person in bankruptcy under title 11, United States Code, that is entered less than five years after the date on which the person was, or was to be, enlisted in the regular Army pursuant to the delayed entry authority under section 513 of title 10, United States Code, does not discharge that person from a debt arising under paragraph (1).

"(4) The Secretary of the Army may waive, in whole or in part, a debt arising under paragraph (1) in any case for which the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to persons who, on or after the date of the enactment of this Act, are enlisted as described in subsection (a) of section 513 of title 10, United States Code, with delayed entry authorized under that section.

**SEC. 543. CORRECTION AND EXTENSION OF CERTAIN ARMY RECRUITING PILOT PROGRAM AUTHORITIES.**

(a) CONTRACT RECRUITING INITIATIVES.—Subsection (d)(2) of section 561 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–130) is amended—

(1) in subparagraphs (A) and (D), by inserting "and Army Reserve" after "Regular Army"; and

(2) in subparagraph (B), by striking "and chain of command".

(b) EXTENSION OF AUTHORITY.—Subsection (e) of such section is amended by striking "December 31, 2005" and inserting "September 30, 2007".

(c) EXTENSION OF TIME FOR REPORTS.—Subsection (g) of such section is amended by striking "February 1, 2006" and inserting "February 1, 2008".

**SEC. 544. MILITARY RECRUITER ACCESS TO SECONDARY SCHOOL STUDENTS.**

(a) ACCESS TO SECONDARY SCHOOLS.—Paragraph (1) of section 503(c) of title 10, United States Code, is amended to read as follows:

"(c) ACCESS TO SECONDARY SCHOOLS.—(1)(A) Each local educational agency receiving assistance under the Elementary and Secondary Education Act of 1965—

"(i) shall provide to military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of those students; and

"(ii) shall, upon a request made by military recruiters for military recruiting purposes, provide access to secondary school student names, addresses, and telephone listings, notwithstanding section 444(a)(5)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(5)(B)).

"(B) A local educational agency may not release a student's name, address, and telephone listing under subparagraph (A)(ii) without the prior written consent of a parent of the student if the student, or a parent of the student, has submitted a request to the local educational agency that the student's information not be released for a purpose covered by that subparagraph without prior written parental consent. Each local education agency shall notify parents of the rights provided under the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 2002, immediately after the amendment to section 503(c) of title 10, United States Code, made, effective that date, by section 563(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–131).

(c) NOTIFICATION.—The Secretary of Education shall provide to local educational agencies notice of the provisions of subsection (c) of section 503 of title 10, United States Code, as in effect upon the amendments made by subsection (a). Such notice shall be provided not later than 120 days after the date of the enactment of this Act and shall be provided in consultation with the Secretary of Defense.

**SEC. 545. PERMANENT AUTHORITY FOR USE OF MILITARY RECRUITING FUNDS FOR CERTAIN EXPENSES AT DEPARTMENT OF DEFENSE RECRUITING FUNCTIONS.**

(a) REPEAL OF TERMINATION PROVISION.—Section 520c of title 10, United States Code, is amended by striking subsection (c).

(b) TECHNICAL AMENDMENTS.—Subsection (a) of such section is amended—

(1) in paragraph (4), by striking "recruiting events" and inserting "recruiting functions"; and

(2) in paragraph (5), by striking "recruiting efforts" the first place it appears and inserting "recruiting functions".

**SEC. 546. REPORT ON HEALTH AND DISABILITY BENEFITS FOR PRE-ACCESSION TRAINING AND EDUCATION PROGRAMS.**

(a) STUDY.—The Secretary of Defense shall conduct a review of the health and disability benefit programs available to recruits and officer candidates engaged in training, education, or other types of programs while not yet on active duty and to cadets and midshipmen attending the service academies. The review shall be conducted with the participation of the Secretaries of the military departments.

(b) REPORT.—Not later than March 1, 2002, 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 findings of the review. The report shall include the following with respect to persons described in subsection (a):

(1) A statement of the process and detailed procedures followed by each of the Armed Forces under the jurisdiction of the Secretary of a military department to provide health care and disability benefits to all such persons injured in training, education, or other types of programs conducted by the Secretary of a military department.

(2) Information on the total number of cases of such persons requiring health care and disability benefits and the total number of cases and average value of health care and disability

benefits provided under the authority for each source of benefits available to those persons.

(3) A discussion of the issues regarding health and disability benefits for such persons that are encountered by the Secretary during the review, to include discussions with individuals who have received those benefits.

(4) A statement of the processes and detailed procedures followed by each of the Armed Forces under the jurisdiction of the Secretary of a military department to provide recruits and officer candidates with succinct information on the eligibility requirements (including information on when they become eligible) for health care benefits under the Defense health care program, and the nature and availability of the benefits under the program.

(5) A discussion of the necessity for legislative changes and specific legislative proposals needed to improve the benefits provided those persons.

(6) An analysis of health and disability benefits under laws administered by the Department of Veterans Affairs and the Department of Labor for which those persons become eligible upon being injured in training or education and a discussion of how those benefits compare to the benefits those persons would receive if retired for physical disability by the Department of Defense.

## Subtitle F—Decorations, Awards, and Posthumous Commissions

### SEC. 551. AUTHORITY FOR AWARD OF THE MEDAL OF HONOR TO HUMBERT R. VERSACE, JON E. SWANSON, AND BEN L. SALOMON FOR VALOR.

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the military service, the President may award the Medal of Honor under section 3741 of that title to any of the persons named in subsections (b), (c), and (d) for the acts of valor referred to in those respective subsections.

(b) HUMBERT R. VERSACE.—Subsection (a) applies with respect to Humbert R. Versace, for conspicuous acts of gallantry and intrepidity at the risk of his life and beyond the call of duty between October 29, 1963, and September 26, 1965, while interned as a prisoner of war by the Vietnamese Communist National Liberation Front (Viet Cong) in the Republic of Vietnam.

(c) JON E. SWANSON.—Subsection (a) applies with respect to Jon E. Swanson, for conspicuous acts of gallantry and intrepidity at the risk of his life and beyond the call of duty on February 26, 1971, while piloting a Scout helicopter on a close-support reconnaissance mission in support of the Army of the Republic of Vietnam Task Force 333 in the Kingdom of Cambodia.

(d) BEN L. SALOMON.—Subsection (a) applies with respect to Ben L. Salomon, for conspicuous acts of gallantry and intrepidity at the risk of his life and beyond the call of duty on July 7, 1944, while defending the soldiers under his care as the Surgeon, 2d Battalion, 105th Infantry Regiment, 27th Infantry Division against an overwhelming enemy force at Saipan, Marianas Islands.

**SEC. 552. REVIEW REGARDING AWARD OF MEDAL OF HONOR TO CERTAIN JEWISH AMERICAN AND HISPANIC AMERICAN WAR VETERANS.**

(a) REVIEW REQUIRED.—The Secretary of each military department shall review the service records of each Jewish American war veteran or Hispanic American war veteran described in subsection (b) to determine whether that veteran should be awarded the Medal of Honor.

(b) COVERED JEWISH AMERICAN WAR VETERANS AND HISPANIC AMERICAN WAR VETERANS.—The Jewish American war veterans and Hispanic American war veterans whose service records are to be reviewed under subsection (a) are the following:

(1) Any Jewish American war veteran or Hispanic American war veteran who was awarded the Distinguished Service Cross, the Navy Cross, or the Air Force Cross before the date of the enactment of this Act.

(2) Any other Jewish American war veteran or Hispanic American war veteran whose name is submitted to the Secretary concerned for such purpose before the end of the one-year period beginning on the date of the enactment of this Act.

(c) CONSULTATIONS.—In carrying out the review under subsection (a), the Secretary of each military department shall consult with the Jewish War Veterans of the United States of America and with such other veterans service organizations as the Secretary considers appropriate.

(d) RECOMMENDATION BASED ON REVIEW.—If the Secretary concerned determines, based upon the review under subsection (a) of the service records of any Jewish American war veteran or Hispanic American war veteran, that the award of the Medal of Honor to that veteran is warranted, the Secretary shall submit to the President a recommendation that the President award the Medal of Honor to that veteran.

(e) AUTHORITY TO AWARD MEDAL OF HONOR.—A Medal of Honor may be awarded to a Jewish American war veteran or Hispanic American war veteran in accordance with a recommendation of the Secretary concerned under subsection (d).

(f) WAIVER OF TIME LIMITATIONS.—An award of the Medal of Honor may be made under subsection (e) without regard to—

(1) section 3744, 6248, or 8744 of title 10, United States Code, as applicable; and

(2) any regulation or other administrative restriction on—

(A) the time for awarding the Medal of Honor; or

(B) the awarding of the Medal of Honor for service for which a Distinguished Service Cross, Navy Cross, or Air Force Cross has been awarded.

(g) DEFINITION.—For purposes of this section, the term "Jewish American war veteran" means any person who served in the Armed Forces during World War II or a later period of war and who identified himself or herself as Jewish on his or her military personnel records.

**SEC. 553. AUTHORITY TO ISSUE DUPLICATE MEDALS OF HONOR AND TO REPLACE STOLEN MILITARY DECORATIONS.**

(a) ARMY.—(1)(A) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 3754. Medal of honor: duplicate medal**

"A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Army may determine, as a duplicate or for display purposes only.".

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

"3754. Medal of honor: duplicate medal.".

(2) Section 3747 of such title is amended by striking "lost" and inserting "stolen, lost,".

(b) NAVY AND MARINE CORPS.—(1)(A) Chapter 567 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 6256. Medal of honor: duplicate medal**

"A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Navy may determine, as a duplicate or for display purposes only.".

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

"6256. Medal of honor: duplicate medal.".

(2) Section 6253 of such title is amended by striking "lost" and inserting "stolen, lost,".

(c) AIR FORCE.—(1)(A) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 8754. Medal of honor: duplicate medal**

"A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Air Force may determine, as a duplicate or for display purposes only.".

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

"8754. Medal of honor: duplicate medal.".

(2) Section 8747 of such title is amended by striking "lost" and inserting "stolen, lost,".

(d) COAST GUARD.—(1)(A) Chapter 13 of title 14, United States Code, is amended by inserting after section 503 the following new section:

**"§ 504. Medal of honor: duplicate medal**

"A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary may determine, as a duplicate or for display purposes only.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 503 the following new item:

"504. Medal of honor: duplicate medal.".

(2) Section 501 of such title is amended by inserting "stolen," before "lost,".

(e) DEFINITION OF MEDAL OF HONOR FOR PURPOSES OF FEDERAL UNAUTHORIZED-USE CRIME.—Section 704(b)(2)(B) of title 18, United States Code, is amended to read as follows:

"(B) As used in this subsection, 'Congressional Medal of Honor' means—

"(i) a medal of honor awarded under section 3741, 6241, or 8741 of title 10 or section 491 of title 14;

"(ii) a duplicate medal of honor issued under section 3754, 6256, or 8754 of title 10 or section 504 of title 14; or

"(iii) a replacement of a medal of honor provided under section 3747, 6253, or 8747 of title 10 or section 501 of title 14.".

**SEC. 554. RETROACTIVE MEDAL OF HONOR SPECIAL PENSION.**

(a) ENTITLEMENT.—Notwithstanding any other provision of law, Robert R. Ingram of Jacksonville, Florida, who was awarded the Medal of Honor pursuant to Public Law 105–103 (111 Stat. 2218), shall be entitled to the special pension provided for under section 1562 of title 38, United States Code (and antecedent provisions of law), for months that begin after March 1966.

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

**SEC. 555. 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) SILVER STAR.—Subsection (a) applies to the award of the Silver Star to Wayne T. Alderson, of Glassport, Pennsylvania, for gallantry in action from March 15 to March 18, 1945, while serving as a member of the Army.

(c) DISTINGUISHED FLYING CROSS.—Subsection (a) applies to the award of the Distinguished Flying Cross for service during World War II (including multiple awards to the same individual) in the case of each individual concerning whom the Secretary of the Navy (or an officer of the Navy acting on behalf of the Secretary) 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 October 30, 2000, 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. 556. SENSE OF CONGRESS ON ISSUANCE OF CERTAIN MEDALS.**

It is the sense of Congress that the Secretary of Defense should consider authorizing—

(1) the issuance of a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Armed Forces served in the Republic of Korea, or the waters adjacent thereto, during the period beginning on July 28, 1954, and ending on such date thereafter as the Secretary considers appropriate;

(2) the issuance of a campaign medal, to be known as the Cold War Service Medal, to each person who while a member of the Armed Forces served satisfactorily on active duty during the Cold War; and

(3) the award of the Vietnam Service Medal to any 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.

**SEC. 557. SENSE OF CONGRESS ON DEVELOPMENT OF A MORE COMPREHENSIVE, UNIFORM POLICY FOR THE AWARD OF DECORATIONS TO MILITARY AND CIVILIAN PERSONNEL OF THE DEPARTMENT OF DEFENSE.**

(a) FINDINGS.—Congress makes the following findings:

(1) The role and importance of civilian nationals of the United States as Federal employees and contractors in support of operations of the Armed Forces worldwide has continued to expand.

(2) The expanded role performed by those civilians, both in the United States and overseas, has greatly increased the risk to those civilians of injury and death from hostile actions taken against United States Armed Forces, as demonstrated by the terrorist attack on the Pentagon on September 11, 2001, in which scores of Department of Defense civilian and contractor personnel were killed or wounded.

(3) On September 20, 2001, the Deputy Secretary of Defense approved the creation of a new award, a medal for the defense of freedom, to be awarded to civilians employed by the Department of Defense who are killed or wounded as a result of hostile action and at the same time directed that a comprehensive review be conducted to develop a more uniform approach to the award of decorations to military and civilian personnel of the Department of Defense.

(b) COMMENDATION OF CREATION OF NEW AWARD.—Congress commends the decision announced by the Deputy Secretary of Defense on September 20, 2001, to approve the creation of a new award, a medal for the defense of freedom, to be awarded to civilians employed by the Department of Defense who are killed or wounded as a result of hostile action.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should act expeditiously to develop a

more comprehensive, uniform policy for the award of decorations to military and civilian personnel of the Department of Defense.

**SEC. 558. POSTHUMOUS ARMY COMMISSION IN THE GRADE OF CAPTAIN IN THE CHAPLAINS CORPS TO ELLA E. GIBSON FOR SERVICE AS CHAPLAIN OF THE FIRST WISCONSIN HEAVY ARTILLERY REGIMENT DURING THE CIVIL WAR.**

The President is authorized and requested to posthumously appoint Ella E. Gibson to the grade of captain in the Chaplains Corps of the Army, the commission to issue as of the date of her appointment as chaplain to the First Wisconsin Heavy Artillery regiment during the Civil War and to be considered to have been in effect during the time during which she faithfully performed the services of a chaplain to that regiment and for which Congress by law (Private Resolution 31 of the 40th Congress, approved March 3, 1869) previously provided for her to be paid the full pay and emoluments of a chaplain in the United States Army as if she had been regularly commissioned and mustered into service.

# Subtitle G—Funeral Honors Duty

**SEC. 561. PARTICIPATION OF MILITARY RETIREES IN FUNERAL HONORS DETAILS.**

(a) AUTHORITY.—Subsection (b)(2) of section 1491 of title 10, United States Code, is amended—

(1) in the first sentence, by inserting "(other than members in a retired status)" after "members of the armed forces"; and

(2) in the second sentence, by inserting "(including members in a retired status)," after "members of the armed forces".

(b) FUNERAL HONORS DUTY ALLOWANCE.—Section 435(a) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(a) ALLOWANCE AUTHORIZED.—"; and

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

"(2) The Secretary concerned may also authorize payment of that allowance to a member of the armed forces in a retired status for any day on which the member serves in a funeral honors detail under section 1491 of title 10, if the time required for service in such detail (including time for preparation) is not less than two hours. The amount of an allowance paid to a member under this paragraph shall be in addition to any other compensation to which the member may be entitled under this title or title 10 or 38.".

**SEC. 562. FUNERAL HONORS DUTY PERFORMED BY RESERVE AND GUARD MEMBERS TO BE TREATED AS INACTIVE-DUTY TRAINING FOR CERTAIN PURPOSES.**

(a) RESERVE MEMBERS.—Section 12503(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "Performance of funeral honors duty by a Reserve not on active duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.".

(b) NATIONAL GUARD MEMBERS.—Section 115(a) of title 32, United States Code, is amended by adding at the end the following new sentence: "Performance of funeral honors duty by such a

member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to funeral honors duty performed on or after October 30, 2000.

**SEC. 563. USE OF MILITARY LEAVE FOR FUNERAL HONORS DUTY BY RESERVE MEMBERS AND NATIONAL GUARDSMEN.**

Section 6323(a)(1) of title 5, United States Code, is amended by inserting "funeral honors duty (as described in section 12503 of title 10 and section 115 of title 32)," after "(as defined in section 101 of title 37),".

**SEC. 564. AUTHORITY TO PROVIDE APPROPRIATE ARTICLES OF CLOTHING AS A CIVILIAN UNIFORM FOR CIVILIANS PARTICIPATING IN FUNERAL HONOR DETAILS.**

Section 1491(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Articles of clothing for members of a veterans organization or other organization referred to in subsection (b)(2) that, as determined by the Secretary concerned, are appropriate as a civilian uniform for persons participating in a funeral honors detail.".

# Subtitle H—Military Spouses and Family Members

**SEC. 571. IMPROVED FINANCIAL AND OTHER ASSISTANCE TO MILITARY SPOUSES FOR JOB TRAINING AND EDUCATION.**

(a) EXAMINATION OF EXISTING EMPLOYMENT ASSISTANCE PROGRAMS.—(1) The Secretary of Defense shall examine existing Department of Defense and other Federal, State, and nongovernmental programs with the objective of improving retention of military personnel by increasing the employability of military spouses and assisting those spouses in gaining access to financial and other assistance for job training and education.

(2) In conducting the examination, the Secretary shall give priority to facilitating and increasing access of military spouses to existing Department of Defense, Federal, State, and nongovernmental sources for the types of financial assistance set forth in paragraph (3), but shall also specifically assess whether the Department of Defense should begin a program for direct financial assistance to military spouses for some or all of those types of assistance and whether such a program of direct financial assistance would enhance retention.

(3) In conducting the examination pursuant to paragraph (1), the Secretary should focus on financial assistance for military spouses for one or more of the following purposes:

(A) Career-related education.

(B) Certification and license fees for employment-related purposes.

(C) Apprenticeships and internships.

(D) Technical training.

(E) Training to improve job skills.

(F) Career counseling.

(G) Skills assessment.

(H) Job-search skills.

(I) Job-related transportation.

(J) Child care.

(K) Any additional employment-related purpose specified by the Secretary for the purposes of the examination under paragraph (1).

(4) Not later than March 30, 2002, 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 results of the examination under paragraph (1).

(b) REVIEW OF DEPARTMENT OF DEFENSE POLICIES.—(1) The Secretary of Defense shall review Department of Defense policies that affect employment and education opportunities for military spouses in the Department of Defense in order to further expand those opportunities. The review shall include the consideration of providing, to the extent authorized by law, separate spouse preferences for employment by appropriated and nonappropriated fund operations.

(2) Not later than March 30, 2002, 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 results of the review under paragraph (1).

(c) SPOUSE EMPLOYMENT ASSISTANCE.—Section 1784 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(d) SPACE-AVAILABLE USE OF FACILITIES FOR SPOUSE TRAINING PURPOSES.—Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may make available to a non-Department of Defense entity space in non-excess facilities controlled by that Secretary for the purpose of the non-Department of Defense entity providing employment-related training for military spouses.

"(e) EMPLOYMENT BY OTHER FEDERAL AGENCIES.—The Secretary of Defense shall work with the Director of the Office of Personnel Management and the heads of other Federal departments and agencies to expand and facilitate the use of existing Federal programs and resources in support of military spouse employment.

"(f) PRIVATE-SECTOR EMPLOYMENT.—The Secretary of Defense—

"(1) shall seek to develop partnerships with firms in the private sector to enhance employment opportunities for spouses of members of the armed forces and to provide for improved job portability for such spouses, especially in the case of the spouse of a member of the armed forces accompanying the member to a new geographical area because of a change of permanent duty station of the member; and

"(2) shall work with the United States Chamber of Commerce and other appropriate private-sector entities to facilitate the formation of such partnerships.

"(g) EMPLOYMENT WITH DOD CONTRACTORS.—The Secretary of Defense shall examine and seek ways for incorporating hiring preferences for qualified spouses of members of the armed forces into contracts between the Department of Defense and private-sector entities.".

**SEC. 572. PERSONS AUTHORIZED TO BE INCLUDED IN SURVEYS OF MILITARY FAMILIES REGARDING FEDERAL PROGRAMS.**

(a) EXTENSION OF SURVEY AUTHORITY.—Subsection (a) of section 1782 of title 10, United States Code, is amended to read as follows:

"(a) AUTHORITY.—The Secretary of Defense, in order to determine the effectiveness of Federal programs relating to military families and the need for new programs, may conduct surveys of—

"(1) members of the armed forces who are on active duty, in an active status, or retired;

"(2) family members of such members; and

"(3) survivors of deceased retired members and of members who died while on active duty.".

(b) FEDERAL RECORDKEEPING REQUIREMENTS.—Subsection (c) of such section is amended to read as follows:

"(c) FEDERAL RECORDKEEPING REQUIREMENTS.—With respect to a survey authorized under subsection (a) that includes a person referred to in that subsection who is not an employee of the United States or is not otherwise considered an employee of the United States for the purposes of section 3502(3)(A)(i) of title 44, the person shall be considered as being an employee of the United States for the purposes of that section.".

**SEC. 573. CLARIFICATION OF TREATMENT OF CLASSIFIED INFORMATION CONCERNING PERSONS IN A MISSING STATUS.**

Section 1506(b)(2) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking the period at the end and inserting "of all missing persons from the conflict or period of war to which the classified information pertains."; and

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

"(B) For purposes of subparagraph (A), information shall be considered to be made reasonably accessible if placed in a separate and distinct file that is available for review by persons specified in subparagraph (A) upon the request of any such person either to review the separate file or to review the personnel file of the missing person concerned.".

**SEC. 574. TRANSPORTATION TO ANNUAL MEETING OF NEXT-OF-KIN OF PERSONS UNACCOUNTED FOR FROM CONFLICTS AFTER WORLD WAR II.**

(a) AUTHORITY FOR DEPARTMENT OF DEFENSE TO PROVIDE TRANSPORTATION.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2647. Next-of-kin of persons unaccounted for from conflicts after World War II: transportation to annual meetings**

"The Secretary of Defense may provide transportation for the next-of-kin of persons who are unaccounted for from the Korean conflict, the Cold War, Vietnam War era, or the Persian Gulf War to and from an annual meeting in the United States. Such transportation shall be provided under such regulations as the Secretary of Defense may prescribe.".

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

"2647. Next-of-kin of persons unaccounted for from conflicts after World War II: transportation to annual meetings.".

**SEC. 575. AMENDMENTS TO CHARTER OF DEFENSE TASK FORCE ON DOMESTIC VIOLENCE.**

(a) MEMBERS APPOINTED FROM PRIVATE SECTOR.—Subsection (h)(1) of section 591 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 639; 10 U.S.C. 1562 note) is amended—

(1) by inserting "who is a member of the Armed Forces or civilian officer or employee of the United States" after "Each member of the task force";

(2) by striking ", but shall" and all that follows and inserting a period; and

(3) by adding at the end the following new sentence: "Other members of the task force shall be appointed in accordance with, and subject to, section 3161 of title 5, United States Code.".

(b) EXTENSION OF TERMINATION DATE.—Subsection (j) of such section is amended by striking "three years after the date of the enactment of this Act" and inserting "on April 24, 2003".

# Subtitle I—Military Justice and Legal Assistance Matters

**SEC. 581. BLOOD ALCOHOL CONTENT LIMIT FOR THE OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE OF DRUNKEN OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.**

Section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "Any person";

(2) by striking "0.10 grams" the first place it appears and all that follows through "chemical analysis" and inserting "in excess of the applicable limit under subsection (b)"; and

(3) by adding at the end the following:

"(b)(1) For purposes of subsection (a), the applicable limit on the alcohol concentration in a person's blood or breath is as follows:

"(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2) for conduct on a military installation that is in more than one State and subject to the maximum blood alcohol content limit specified in paragraph (3).

"(B) In the case of the operation or control of a vehicle, aircraft, or vessel outside the United States, the applicable blood alcohol content limit is the maximum blood alcohol content limit specified in paragraph (3) or such lower limit as the Secretary of Defense may by regulation prescribe.

"(2) In the case of a military installation that is in more than one State, if those States have different blood alcohol content limits under their respective State laws, the Secretary may select one such blood alcohol content limit to apply uniformly on that installation.

"(3) For purposes of paragraph (1), the maximum blood alcohol content limit with respect to alcohol concentration in a person's blood is 0.10 grams of alcohol per 100 milliliters of blood and with respect to alcohol concentration in a person's breath is 0.10 grams of alcohol per 210 liters of breath, as shown by chemical analysis.

"(4) In this subsection:

"(A) The term 'blood alcohol content limit' means the maximum permissible alcohol concentration in a person's blood or breath for purposes of operation or control of a vehicle, aircraft, or vessel.

"(B) The term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and the term 'State' includes each of those jurisdictions.".

**SEC. 582. REQUIREMENT THAT COURTS-MARTIAL CONSIST OF NOT LESS THAN 12 MEMBERS IN CAPITAL CASES.**

(a) CLASSIFICATION OF GENERAL COURT-MARTIAL IN CAPITAL CASES.—Section 816(1)(A) of title 10, United States Code (article 16(1)(A) of the Uniform Code of Military Justice) is amended by inserting after "five members" the following: "or, in a case in which the accused may be sentenced to a penalty of death, the number of members determined under section 825a of this title (article 25a)".

(b) NUMBER OF MEMBERS REQUIRED.—(1) Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 825 (article 25) the following new section:

**"§ 825a. Art. 25a. Number of members in capital cases**

"In a case in which the accused may be sentenced to a penalty of death, the number of members shall be not less than 12, unless 12 members are not reasonably available because of physical conditions or military exigencies, in which case the convening authority shall specify a lesser number of members not less than five, and the court may be assembled and the trial held with not less than the number of members so specified. In such a case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.".

(2) The table of sections at the beginning of subchapter V of such chapter is amended by inserting after the item relating to section 825 (article 25) the following new item:

"825a. 25a. Number of members in capital cases.".

(c) ABSENT AND ADDITIONAL MEMBERS.—Section 829(b) of such title (article 29 of the Uniform Code of Military Justice) is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking "five members" both places it appears and inserting "the applicable minimum number of members"; and

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

"(2) In this section, the term 'applicable minimum number of members' means five members or, in a case in which the death penalty may be adjudged, the number of members determined under section 825a of this title (article 25a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses committed after December 31, 2002.

**SEC. 583. ACCEPTANCE OF VOLUNTARY LEGAL ASSISTANCE FOR THE CIVIL AFFAIRS OF MEMBERS AND FORMER MEMBERS OF THE UNIFORMED SERVICES AND THEIR DEPENDENTS.**

(a) AUTHORITY.—Subsection (a) of section 1588 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Legal services voluntarily provided as legal assistance under section 1044 of this title.".

(b) DEFENSE OF LEGAL MALPRACTICE.—Subsection (d)(1) of that section is amended by adding at the end the following new subparagraph:

"(E) Section 1054 of this title (relating to legal malpractice), for a person voluntarily providing legal services accepted under subsection (a)(5), as if the person were providing the services as an attorney of a legal staff within the Department of Defense.".

# Subtitle J—Other Matters

**SEC. 591. CONGRESSIONAL REVIEW PERIOD FOR CHANGE IN GROUND COMBAT EXCLUSION POLICY.**

Section 542(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 113 note) is amended—

(1) in paragraph (1)—

(A) by striking "not less than 90 days"; and

(B) by adding at the end the following new sentence: "Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received."; and

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

"(5) For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.".

**SEC. 592. PER DIEM ALLOWANCE FOR LENGTHY OR NUMEROUS DEPLOYMENTS.**

(a) FUNDING SOURCE FOR ALLOWANCE.—Section 436(a) of title 37, United States Code, is amended by adding at the end the following new sentence: "The Secretary shall pay the allowance from appropriations available for operation and maintenance for the armed force in which the member serves.".

(b) EXPANDED REPORT REGARDING MANAGEMENT OF INDIVIDUAL MEMBER DEPLOYMENTS.—Section 574(d) 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–138) is amended in the second sentence by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) a discussion of the experience in tracking and recording the deployments of members of the Armed Forces and the payment of the per diem allowance for lengthy or numerous

deployments in accordance with section 436 of title 37, United States Code;

"(2) specific comments regarding the effect of section 991 of title 10, United States Code, and section 436 of title 37, United States Code, on the readiness of the Navy and Marine Corps given the deployment intensive mission of these services; and

"(3) any recommendations for revision of section 991 of title 10, United States Code, or section 436 of title 37, United States Code, that the Secretary considers appropriate.".

**SEC. 593. CLARIFICATION OF DISABILITY SEVERANCE PAY COMPUTATION.**

(a) CLARIFICATION.—Section 1212(a)(2) of title 10, United States Code, is amended by striking "for promotion" in subparagraph (C) and the first place it appears in subparagraph (D).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to members separated under section 1203 or 1206 of title 10, United States Code, on or after date of the enactment of this Act.

**SEC. 594. TRANSPORTATION OR STORAGE OF PRIVATELY OWNED VEHICLES ON CHANGE OF PERMANENT STATION.**

(a) ADVANCE PAYMENT OF STORAGE COSTS.—Subsection (b) of section 2634 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Storage costs payable under this subsection may be paid in advance.".

(b) SHIPMENT ON PERMANENT CHANGE OF STATION WITHIN CONUS.—Subsection (h)(1) of such section is amended by striking "includes" in the second sentence and all that follows and inserting "includes the following:

"(A) An authorized change in home port of a vessel.

"(B) A transfer or assignment between two permanent stations in the continental United States when—

"(i) the member cannot, because of injury or the conditions of the order, drive the motor vehicle between the permanent duty stations; or

"(ii) the Secretary concerned determines that it is advantageous and cost-effective to the United States for one motor vehicle of the member to be transported between the permanent duty stations.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to orders to make a change of permanent station that are issued on or after the date of the enactment of this Act.

**SEC. 595. REPEAL OF REQUIREMENT FOR FINAL COMPTROLLER GENERAL REPORT RELATING TO ARMY END STRENGTH ALLOCATIONS.**

Section 552 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 319; 10 U.S.C. 115 note) is repealed.

**SEC. 596. CONTINUED DEPARTMENT OF DEFENSE ADMINISTRATION OF NATIONAL GUARD CHALLENGE PROGRAM AND DEPARTMENT OF DEFENSE STARBASE PROGRAM.**

(a) NATIONAL GUARD CHALLENGE PROGRAM.—Section 509(b) of title 32, United States Code, is amended—

(1) in paragraph (2)(A), by striking "in a fiscal year" and inserting "in fiscal year 2001 or 2002"; and

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

"(4) The Secretary of Defense shall remain the executive agent to carry out the National Guard Challenge Program regardless of the source of funds for the program or any transfer of jurisdiction over the program within the executive branch. As provided in subsection (a), the Secretary may use the National Guard to conduct the program.".

(b) STARBASE PROGRAM.—Section 2193b(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "The Secretary"; and

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

"(2) The Secretary of Defense shall remain the executive agent to carry out the program regardless of the source of funds for the program or any transfer of jurisdiction over the program within the executive branch.".

(c) REPEAL OF CONTINGENT FUNDING FOR JROTC.—(1) Section 2033 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 102 of such title is amended by striking the item relating to section 2033.

(3) The amendments made by this subsection shall take effect on October 1, 2002.

**SEC. 597. REPORT ON DEFENSE SCIENCE BOARD RECOMMENDATION ON ORIGINAL APPOINTMENTS IN REGULAR GRADES FOR ACADEMY GRADUATES AND CERTAIN OTHER NEW OFFICERS.**

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 legislative and policy changes required to implement the recommendation of the Defense Science Board (made in its report entitled "Final Report on Human Resources Strategy" and dated February 28, 2000) that all officers be given initial regular commissions. The Secretary shall include in that report a description of the measures necessary to transition the current active-duty officer corps to an all-regular status, if the Board's recommendation were adopted, and shall provide the Secretary's position with regard to implementing that recommendation. The report shall be submitted not later than six months after the date of the enactment of this Act.

**SEC. 598. SENSE OF CONGRESS REGARDING THE SELECTION OF OFFICERS FOR RECOMMENDATION FOR APPOINTMENT AS COMMANDER, UNITED STATES TRANSPORTATION COMMAND.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) envisioned that officers would be selected for recommendation to the President for appointment as the commander of a combatant command under chapter 6 of title 10, United States Code (as added by that Act), on the basis of being the best qualified officer for that position, rather than the best qualified officer of the armed force that had historically supplied officers to serve in that position.

(2) In order to provide for greater competition among the Armed Forces for selection of officers for assignment as the

commanders of the combatant commands and assignment to certain other joint positions in the grade of general or admiral, Congress provided temporary relief from the limitation on the number of officers serving on active duty in the grade of general or admiral in section 405 of the National Defense Authorization Act for Fiscal Year 1995 and thereafter extended that relief until September 30, 2003, but has also required that the Secretary of Defense be furnished the name of at least one officer from each of the Armed Forces for consideration for appointment to each such position.

(3) Most of the positions of commanders of the combatant commands have been filled successively by officers of more than one of the Armed Forces since the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

(4) However, general officers of the Air Force with only limited experience in the transportation services have usually filled the position of commander of the United States Transportation Command.

(5) The United States Transportation Command could benefit from the appointment of future commanders selected from the Army, Navy and Marine Corps, in addition to the Air Force.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense, when considering officers for recommendation to the President for appointment as commander of the United States Transportation Command, should not rely upon officers of one service which has traditionally provided officers to fill that position but should select for such recommendation the best qualified officer of the Army, Navy, Air Force, or Marine Corps.

# TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

### Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2002.
Sec. 602. Basic pay rate for certain reserve commissioned officers with prior service as an enlisted member or warrant officer.
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### 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 nurse officer candidates, registered nurses, and nurse anesthetists.
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Sec. 622. Education savings plan to encourage reenlistments and extensions of service in critical specialties.
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Sec. 634. Increased weight allowance for transportation of baggage and household effects for junior enlisted members.
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Sec. 638. Travel and transportation allowances for family members to attend burial of a deceased member of the uniformed services.
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**Subtitle D—Retirement and Survivor Benefit Matters**

Sec. 641. Contingent authority for concurrent receipt of military retired pay and veterans' disability compensation and enhancement of special compensation authority.
Sec. 642. Survivor Benefit Plan annuities for surviving spouses of members who die while on active duty and not eligible for retirement.

**Subtitle E—Other Matters**

Sec. 651. Payment for unused leave in excess of 60 days accrued by members of reserve components on active duty for one year or less.
Sec. 652. Additional authority to provide assistance for families of members of the Armed Forces.
Sec. 653. Authorization of transitional compensation and commissary and exchange benefits for dependents of commissioned officers of the Public Health Service and the National Oceanic and Atmospheric Administration who are separated for dependent abuse.
Sec. 654. Transfer of entitlement to educational assistance under Montgomery GI Bill by members of the Armed Forces with critical military skills.

# Subtitle A—Pay and Allowances

**SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2002.**

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2002 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, 2002, 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 .... | 7,180.20 | 7,415.40 | 7,571.10 | 7,614.90 | 7,809.30 |
| O–7 .... | 5,966.40 | 6,371.70 | 6,371.70 | 6,418.20 | 6,657.90 |
| O–6 .... | 4,422.00 | 4,857.90 | 5,176.80 | 5,176.80 | 5,196.60 |
| O–5 .... | 3,537.00 | 4,152.60 | 4,440.30 | 4,494.30 | 4,673.10 |
| O–4 .... | 3,023.70 | 3,681.90 | 3,927.60 | 3,982.50 | 4,210.50 |
| O–3 [3] | 2,796.60 | 3,170.40 | 3,421.80 | 3,698.70 | 3,875.70 |
| O–2 [3] | 2,416.20 | 2,751.90 | 3,169.50 | 3,276.30 | 3,344.10 |
| O–1 [3] | 2,097.60 | 2,183.10 | 2,638.50 | 2,638.50 | 2,638.50 |
| | 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 .... | 8,135.10 | 8,210.70 | 8,519.70 | 8,608.50 | 8,874.30 |
| O–7 .... | 6,840.30 | 7,051.20 | 7,261.80 | 7,472.70 | 8,135.10 |
| O–6 .... | 5,418.90 | 5,448.60 | 5,448.60 | 5,628.60 | 6,305.70 |
| O–5 .... | 4,673.10 | 4,813.50 | 5,073.30 | 5,413.50 | 5,755.80 |
| O–4 .... | 4,395.90 | 4,696.20 | 4,930.20 | 5,092.50 | 5,255.70 |
| O–3 [3] | 4,070.10 | 4,232.40 | 4,441.20 | 4,549.50 | 4,549.50 |
| O–2 [3] | 3,344.10 | 3,344.10 | 3,344.10 | 3,344.10 | 3,344.10 |
| O–1 [3] | 2,638.50 | 2,638.50 | 2,638.50 | 2,638.50 | 2,638.50 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| O–10 [2] | $0.00 | $11,601.90 | $11,659.20 | $11,901.30 | $12,324.00 |
| O–9 .... | 0.00 | 10,147.50 | 10,293.60 | 10,504.80 | 10,873.80 |
| O–8 .... | 9,259.50 | 9,614.70 | 9,852.00 | 9,852.00 | 9,852.00 |
| O–7 .... | 8,694.90 | 8,694.90 | 8,694.90 | 8,694.90 | 8,738.70 |
| O–6 .... | 6,627.00 | 6,948.30 | 7,131.00 | 7,316.10 | 7,675.20 |
| O–5 .... | 5,919.00 | 6,079.80 | 6,262.80 | 6,262.80 | 6,262.80 |
| O–4 .... | 5,310.60 | 5,310.60 | 5,310.60 | 5,310.60 | 5,310.60 |
| O–3 [3] | 4,549.50 | 4,549.50 | 4,549.50 | 4,549.50 | 4,549.50 |
| O–2 [3] | 3,344.10 | 3,344.10 | 3,344.10 | 3,344.10 | 3,344.10 |
| O–1 [3] | 2,638.50 | 2,638.50 | 2,638.50 | 2,638.50 | 2,638.50 |

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades O–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 $13,598.10, 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 | $3,698.70 | $3,875.70 |
| O–2E | 0.00 | 0.00 | 0.00 | 3,276.30 | 3,344.10 |
| O–1E | 0.00 | 0.00 | 0.00 | 2,638.50 | 2,818.20 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| O–3E | $4,070.10 | $4,232.40 | $4,441.20 | $4,617.00 | $4,717.50 |
| O–2E | 3,450.30 | 3,630.00 | 3,768.90 | 3,872.40 | 3,872.40 |
| O–1E | 2,922.30 | 3,028.50 | 3,133.20 | 3,276.30 | 3,276.30 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| O–3E | $4,855.20 | $4,855.20 | $4,855.20 | $4,855.20 | $4,855.20 |
| O–2E | 3,872.40 | 3,872.40 | 3,872.40 | 3,872.40 | 3,872.40 |
| O–1E | 3,276.30 | 3,276.30 | 3,276.30 | 3,276.30 | 3,276.30 |

## 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 ... | 2,889.60 | 3,108.60 | 3,198.00 | 3,285.90 | 3,437.10 |
| W–3 ... | 2,638.80 | 2,862.00 | 2,862.00 | 2,898.90 | 3,017.40 |
| W–2 ... | 2,321.40 | 2,454.00 | 2,569.80 | 2,654.10 | 2,726.40 |
| W–1 ... | 2,049.90 | 2,217.60 | 2,330.10 | 2,402.70 | 2,511.90 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| W–5 ... | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| W–4 ... | 3,586.50 | 3,737.70 | 3,885.30 | 4,038.00 | 4,184.40 |
| W–3 ... | 3,152.40 | 3,330.90 | 3,439.50 | 3,558.30 | 3,693.90 |
| W–2 ... | 2,875.20 | 2,984.40 | 3,093.90 | 3,200.40 | 3,318.00 |
| W–1 ... | 2,624.70 | 2,737.80 | 2,850.00 | 2,963.70 | 3,077.10 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| W–5 ... | $0.00 | $4,965.60 | $5,136.00 | $5,307.00 | $5,478.60 |
| W–4 ... | 4,334.40 | 4,480.80 | 4,632.60 | 4,782.00 | 4,935.30 |
| W–3 ... | 3,828.60 | 3,963.60 | 4,098.30 | 4,233.30 | 4,368.90 |
| W–2 ... | 3,438.90 | 3,559.80 | 3,680.10 | 3,801.30 | 3,801.30 |
| W–1 ... | 3,189.90 | 3,275.10 | 3,275.10 | 3,275.10 | 3,275.10 |

[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 .... | 1,986.90 | 2,169.00 | 2,251.50 | 2,332.50 | 2,417.40 |
| E–6 .... | 1,701.00 | 1,870.80 | 1,953.60 | 2,033.70 | 2,117.40 |
| E–5 .... | 1,561.50 | 1,665.30 | 1,745.70 | 1,828.50 | 1,912.80 |
| E–4 .... | 1,443.60 | 1,517.70 | 1,599.60 | 1,680.30 | 1,752.30 |
| E–3 .... | 1,303.50 | 1,385.40 | 1,468.50 | 1,468.50 | 1,468.50 |
| E–2 .... | 1,239.30 | 1,239.30 | 1,239.30 | 1,239.30 | 1,239.30 |
| E–1 .... | [3] 1,105.50 | 1,105.50 | 1,105.50 | 1,105.50 | 1,105.50 |
| | Over 8 | Over 10 | Over 12 | Over 14 | Over 16 |
| E–9 [2] .. | $0.00 | $3,423.90 | $3,501.30 | $3,599.40 | $3,714.60 |
| E–8 .... | 2,858.10 | 2,940.60 | 3,017.70 | 3,110.10 | 3,210.30 |
| E–7 .... | 2,562.90 | 2,645.10 | 2,726.40 | 2,808.00 | 2,892.60 |
| E–6 .... | 2,254.50 | 2,337.30 | 2,417.40 | 2,499.30 | 2,558.10 |
| E–5 .... | 2,030.10 | 2,110.20 | 2,193.30 | 2,193.30 | 2,193.30 |
| E–4 .... | 1,752.30 | 1,752.30 | 1,752.30 | 1,752.30 | 1,752.30 |
| E–3 .... | 1,468.50 | 1,468.50 | 1,468.50 | 1,468.50 | 1,468.50 |
| E–2 .... | 1,239.30 | 1,239.30 | 1,239.30 | 1,239.30 | 1,239.30 |
| E–1 .... | 1,105.50 | 1,105.50 | 1,105.50 | 1,105.50 | 1,105.50 |
| | Over 18 | Over 20 | Over 22 | Over 24 | Over 26 |
| E–9 [2] .. | $3,830.40 | $3,944.10 | $4,098.30 | $4,251.30 | $4,467.00 |
| E–8 .... | 3,314.70 | 3,420.30 | 3,573.00 | 3,724.80 | 3,937.80 |
| E–7 .... | 2,975.10 | 3,057.30 | 3,200.40 | 3,292.80 | 3,526.80 |
| E–6 .... | 2,602.80 | 2,602.80 | 2,602.80 | 2,602.80 | 2,602.80 |
| E–5 .... | 2,193.30 | 2,193.30 | 2,193.30 | 2,193.30 | 2,193.30 |
| E–4 .... | 1,752.30 | 1,752.30 | 1,752.30 | 1,752.30 | 1,752.30 |
| E–3 .... | 1,468.50 | 1,468.50 | 1,468.50 | 1,468.50 | 1,468.50 |
| E–2 .... | 1,239.30 | 1,239.30 | 1,239.30 | 1,239.30 | 1,239.30 |
| E–1 .... | 1,105.50 | 1,105.50 | 1,105.50 | 1,105.50 | 1,105.50 |

[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 $5,382.90, 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 $1,022.70.

**SEC. 602. BASIC PAY RATE FOR CERTAIN RESERVE COMMISSIONED OFFICERS WITH PRIOR SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER.**

(a) SERVICE CREDIT.—Section 203(d) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking "active service as a warrant officer or as a warrant officer and an enlisted member" and inserting "service described in paragraph (2)"; and

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

"(2) Service to be taken into account for purposes of computing basic pay under paragraph (1) is as follows:

"(A) Active service as a warrant officer or as a warrant officer and an enlisted member, in the case of—

"(i) a commissioned officer on active duty who is paid from funds appropriated for active-duty personnel; or

"(ii) a commissioned officer on active Guard and Reserve duty.

"(B) In the case of a commissioned officer (not referred to in subparagraph (A)(ii)) who is paid from funds appropriated for reserve personnel, service as a warrant officer, or as a warrant officer and enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply with respect to months beginning on or after the date of the enactment of this Act.

**SEC. 603. RESERVE COMPONENT COMPENSATION FOR DISTRIBUTED LEARNING ACTIVITIES PERFORMED AS INACTIVE-DUTY TRAINING.**

(a) COMPENSATION AUTHORIZED.—Section 206(d) of title 37, United States Code, is amended—

(1) by striking "This section" and inserting "(1) Except as provided in paragraph (2), this section";

(2) by striking "an armed force" and inserting "a uniformed service"; and

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

"(2) A member of the Selected Reserve of the Ready Reserve may be paid compensation under this section at a rate and under terms determined by the Secretary of Defense, but not to exceed the rate otherwise applicable to the member under subsection (a), upon the member's successful completion of a course of instruction undertaken by the member using electronic-based distributed learning methodologies to accomplish training requirements related to unit readiness or mobilization, as directed for the member by the Secretary concerned. The compensation may be paid regardless of whether the course of instruction was under the direct control of the Secretary concerned or included the presence of an instructor.".

(b) DEFINITION OF INACTIVE-DUTY TRAINING.—Section 101(22) of such title is amended by inserting after "but" the following: "(except as provided in section 206(d)(2) of this title)".

**SEC. 604. SUBSISTENCE ALLOWANCES.**

(a) BASELINE AMOUNT FOR CALCULATING ALLOWANCE FOR ENLISTED MEMBERS.—Section 402(b) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(4) For purposes of implementing paragraph (2), the monthly rate of basic allowance for subsistence that was in effect for an enlisted member for calendar year 2001 is deemed to be $233.".

(b) RATE FOR ENLISTED MEMBERS WHEN MESSING FACILITIES NOT AVAILABLE.—(1) Notwithstanding section 402 of title 37, United States Code, the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may prescribe a rate of basic allowance for subsistence to apply to enlisted members of the uniformed services when messing facilities of the United States are not available. The rate may be higher than the rate of basic allowance for subsistence that would otherwise be applicable to the members under that section, but may not be higher than the highest rate that was in effect for enlisted members of the uniformed

services under those circumstances before the date of the enactment of this Act.

(2) Paragraph (1) shall cease to be effective on the first day of the first month for which the basic allowance for subsistence calculated for enlisted members of the uniformed services under section 402 of title 37, United States Code, exceeds the rate of the basic allowance for subsistence prescribed under paragraph (1).

(c) CONTINUATION OF BAS TRANSITIONAL AUTHORITY.—Notwithstanding the repeal of subsections (c) through (f) of section 602 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 37 U.S.C. 402 note) by section 603(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–145), the basic allowance for subsistence shall be paid in accordance with such subsections for October, November, and December of 2001.

(d) ELIGIBILITY FOR SUPPLEMENTAL SUBSISTENCE ALLOWANCE.—Section 402a(b)(1) of title 37, United States Code, is amended by inserting "with dependents" after "a member of the armed forces".

**SEC. 605. ELIGIBILITY FOR TEMPORARY HOUSING ALLOWANCE WHILE IN TRAVEL OR LEAVE STATUS BETWEEN PERMANENT DUTY STATIONS.**

(a) REPEAL OF PAY GRADE LIMITATION.—Section 403(i) of title 37, United States Code, is amended by striking "who is in a pay grade E–4 (4 or more years of service) or above".

(b) EFFECTIVE DATE; APPLICATION.—The amendment made by this section shall take effect on January 1, 2003, and apply to members of the uniformed services in a travel or leave status between permanent duty stations on or after that date.

**SEC. 606. UNIFORM ALLOWANCE FOR OFFICERS.**

(a) RELATION TO INITIAL UNIFORM ALLOWANCE.—Section 416(b)(1) of title 37, United States Code, is amended by striking "$200" and inserting "$400".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as of October 1, 2000.

**SEC. 607. FAMILY SEPARATION ALLOWANCE FOR MEMBERS ELECTING UNACCOMPANIED TOUR BY REASON OF HEALTH LIMITATIONS OF DEPENDENTS.**

(a) ENTITLEMENT TO ALLOWANCE.—Section 427(c) of title 37, United States Code, is amended—

(1) by striking "A member" in the first sentence and inserting "(1) Except as provided in paragraph (2) or (3), a member";

(2) in the second sentence, by striking "The Secretary concerned may waive the preceding sentence" and inserting the following:

"(3) The Secretary concerned may waive paragraph (1)"; and

(3) by inserting after the first sentence the following new paragraph:

"(2) The prohibition in the first sentence of paragraph (1) does not apply to a member who elects to serve an unaccompanied tour of duty because a dependent cannot accompany the member to or at that permanent station for certified medical reasons.".

(b) APPLICATION OF AMENDMENT.—Paragraph (2) of section 427(c) of title 37, United States Code, as added by subsection (a)(3), shall apply with respect to pay periods beginning on or after January 1, 2002, for a member of the uniformed services covered by such paragraph regardless of the date on which the member first made the election to serve an unaccompanied tour of duty.

# Subtitle B—Bonuses and Special and Incentive Pays

**SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.**

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking "January 1, 2002" and inserting "January 1, 2003".

**SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.**

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking "December 31, 2001" and inserting "December 31, 2002".

**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 such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

**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, 2001" and inserting "December 31, 2002".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(c) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

(d) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking "December 31, 2001" and inserting "December 31, 2002".

**SEC. 615. HAZARDOUS DUTY PAY FOR MEMBERS OF MARITIME VISIT, BOARD, SEARCH, AND SEIZURE TEAMS.**

(a) ADDITIONAL TYPE OF DUTY ELIGIBLE FOR PAY.—Section 301(a) of title 37, United States Code, is amended—

(1) in paragraph (10), by striking "or" at the end;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) involving regular participation as a member of a team conducting visit, board, search, and seizure operations aboard vessels in support of maritime interdiction operations; or".

(b) MONTHLY AMOUNT.—Subsection (c) of such section is amended—

(1) in paragraph (1), by striking "(10)" and inserting "(11)"; and

(2) in paragraph (2)(A), by striking "(11)" and inserting "(12)".

(c) APPLICATION OF AMENDMENT.—Paragraph (11) of section 301(a) of title 37, United States Code, as added by subsection (a)(3), shall apply to duty described in such paragraph that is performed on or after January 1, 2002.

**SEC. 616. ELIGIBILITY FOR CERTAIN CAREER CONTINUATION BONUSES FOR EARLY COMMITMENT TO REMAIN ON ACTIVE DUTY.**

(a) AVIATION OFFICERS.—Section 301b(b)(4) of title 37, United States Code, is amended by inserting before the period at the end the following: "or is within one year of completing such commitment".

(b) SURFACE WARFARE OFFICERS.—Section 319(a)(3) of such title is amended by inserting before the period at the end the following: "or is within one year of completing such commitment".

**SEC. 617. SECRETARIAL DISCRETION IN PRESCRIBING SUBMARINE DUTY INCENTIVE PAY RATES.**

(a) AUTHORITY OF SECRETARY OF THE NAVY; MAXIMUM RATE.—Subsection (b) of section 301c of title 37, United States Code, is amended to read as follows:

"(b) MONTHLY RATES.—The Secretary of the Navy shall prescribe the monthly rates of submarine duty incentive pay, except that the maximum monthly rate may not exceed $1,000.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a)—

(A) by inserting "ELIGIBILITY REQUIREMENTS.—" after "(a)"; and

(B) by striking "set forth in" each place it appears and inserting "prescribed pursuant to";

(2) in subsection (c), by inserting "EXCEPTIONS.—" after "(c)"; and

(3) in subsection (d)—

(A) by inserting "APPLICABILITY TO CERTAIN NAVAL RESERVE DUTY.—" after "(d)"; and

(B) by striking "authorized by" and inserting "prescribed pursuant to".

(c) TRANSITION.—The tables set forth in subsection (b) of section 301c of title 37, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply until the later of the following:

(1) January 1, 2002.

(2) The date on which the Secretary of the Navy prescribes new submarine duty incentive pay rates as authorized by the amendment made by subsection (a).

**SEC. 618. CONFORMING ACCESSION BONUS FOR DENTAL OFFICERS AUTHORITY WITH AUTHORITIES FOR OTHER SPECIAL PAY AND BONUSES.**

Section 302h(a)(1) of title 37, United States Code, is amended by striking "the date of the enactment of this section, and ending on September 30, 2002" and inserting "September 23, 1996, and ending on December 31, 2002".

**SEC. 619. MODIFICATION OF ELIGIBILITY REQUIREMENTS FOR INDIVIDUAL READY RESERVE BONUS FOR REENLISTMENT, ENLISTMENT, OR EXTENSION OF ENLISTMENT.**

(a) ELIGIBILITY BASED ON QUALIFICATIONS IN CRITICALLY SHORT WARTIME SKILLS OR SPECIALTIES.—Subsection (a) of section 308h of title 37, United States Code, is amended to read as follows:

"(a) AUTHORITY AND ELIGIBILITY REQUIREMENTS.—(1) The Secretary concerned may pay a bonus as provided in subsection (b) to an eligible person who reenlists, enlists, or voluntarily extends an enlistment in a reserve component of an armed force for assignment to an element (other than the Selected Reserve) of the Ready Reserve of that armed force if the reenlistment, enlistment, or extension is for a period of three years, or for a period of six years, beyond any other period the person is obligated to serve.

"(2) A person is eligible for a bonus under this section if the person—

"(A) is or has been a member of an armed force;

"(B) is qualified in a skill or specialty designated by the Secretary concerned as a critically short wartime skill or critically short wartime specialty; and

"(C) has not failed to complete satisfactorily any original term of enlistment in the armed forces.

"(3) For the purposes of this section, the Secretary concerned may designate a skill or specialty as a critically short wartime skill or critically short wartime specialty for an armed force under the jurisdiction of the Secretary if the Secretary determines that—

"(A) the skill or specialty is critical to meet wartime requirements of the armed force; and

"(B) there is a critical shortage of personnel in that armed force who are qualified in that skill or specialty.".

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (b), by inserting "BONUS AMOUNTS; PAYMENT.—" after "(b)";

(2) in subsection (c), by inserting "REPAYMENT OF BONUS.—" after "(c)";

(3) in subsection (d), by inserting "TREATMENT OF REIMBURSEMENT OBLIGATION.—" after "(d)";

(4) in subsection (e), by inserting "EFFECT OF BANKRUPTCY.—" after "(e)";

(5) in subsection (f), by inserting "REGULATIONS.—" after "(f)"; and

(6) in subsection (g), by inserting "TERMINATION OF AUTHORITY.—" after "(g)".

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretaries of the military departments shall prescribe such regulations as may be necessary for administering subsection (a) of section 308h of title 37, United States Code, as amended by this section.

(d) APPLICATION OF AMENDMENT.—Subsection (a) of section 308h of title 37, United States Code, as amended by this section, shall apply with respect to reserve component reenlistments, enlistments, and extensions of enlistments that are executed on or after the first day of the first month that begins more than 180 days after the date of the enactment of this Act. Subsection (a) of such section 308h, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to reserve component reenlistments, enlistments, and extensions of enlistments that are executed before the first day of that first month.

**SEC. 620. INSTALLMENT PAYMENT AUTHORITY FOR 15-YEAR CAREER STATUS BONUS.**

(a) MEMBER ELECTION.—Section 322(d) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "paid in a single lump sum of" and inserting "equal to";

(2) by redesignating paragraph (2) as paragraph (4), and in such paragraph, by striking "The bonus" and inserting "The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments,"; and

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

"(2) A member electing to receive the bonus under this section shall elect one of the following payment options:

"(A) A single lump sum of $30,000.

"(B) Two installments of $15,000 each.

"(C) Three installments of $10,000 each.

"(D) Four installments of $7,500 each.

"(E) Five installments of $6,000 each.

"(3) If a member elects installment payments under paragraph (2), the second installment (and subsequent installments, as applicable) shall be paid on the earlier of the following dates:

"(A) The annual anniversary date of the payment of the first installment.

"(B) January 15 of each succeeding calendar year.".

(b) APPLICATION TO EXISTING AGREEMENTS.—The Secretary concerned (as defined in section 101(5) of title 37, United States Code) shall extend to each member of the uniformed services who has executed the written agreement required by subsection (a)(2) of section 322 of such title before the date of the enactment of this Act, but who has not received the lump sum payment by that date, an opportunity to make the election authorized by subsection (d) of such section, as amended by this section.

**SEC. 621. ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.**

(a) BONUS AUTHORIZED.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

### "§ 324. Special pay: accession bonus for new officers in critical skills

"(a) ACCESSION BONUS AUTHORIZED.—Under regulations prescribed by the Secretary concerned, a person who executes a written agreement to accept a commission as an officer of the armed forces and serve on active duty in a designated critical officer skill for the period specified in the agreement may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(b) DESIGNATION OF CRITICAL OFFICER SKILLS.—(1) The Secretary concerned shall designate the critical officer skills for the purposes of this section. A skill may be designated as a critical officer skill for an armed force under this subsection if—

"(1) in order to meet requirements of the armed force, it is critical for the armed force to have a sufficient number of officers who are qualified in that skill; and

"(2) in order to mitigate a current or projected significant shortage of personnel in the armed force who are qualified in that skill, it is critical to access into that armed force in sufficient numbers persons who are qualified in that skill or are to be trained in that skill.

"(c) LIMITATION ON AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $60,000.

"(d) PAYMENT METHOD.—Upon acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount of the accession bonus payable under the agreement becomes fixed. The agreement shall specify whether the accession bonus will be paid by the Secretary in a lump sum or installments.

"(e) RELATION TO OTHER ACCESSION BONUS AUTHORITY.—An individual may not receive an accession bonus under this section and section 302d, 302h, 302j, or 312b of this title for the same period of service.

"(f) REPAYMENT FOR FAILURE TO COMMENCE OR COMPLETE OBLIGATED SERVICE.—(1) An individual who, after having received all or part of the accession bonus under an agreement referred to in subsection (a), fails to accept a commission as an officer or to commence or complete the total period of active duty service specified in the agreement shall repay to the United States the amount that bears the same ratio to the total amount of the bonus authorized for such person as the unserved part of the period of agreed active duty service bears to the total period of the agreed active duty service. However, the amount required to be repaid by the individual may not exceed the amount of the accession bonus that was paid to the individual.

"(2) Subject to paragraph (3), an obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(3) The Secretary concerned may waive, in whole or in part, the repayment requirement under paragraph (1) on a case-by-case basis if the Secretary concerned determines that repayment would be against equity and good conscience or would be contrary to the best interests of the United States.

"(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2002.".

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

"324. Special pay: accession bonus for new officers in critical skills.".

**SEC. 622. EDUCATION SAVINGS PLAN TO ENCOURAGE REENLISTMENTS AND EXTENSIONS OF SERVICE IN CRITICAL SPECIALTIES.**

(a) ESTABLISHMENT OF SAVINGS PLAN.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 324, as added by section 621, the following new section:

**"§ 325. Incentive bonus: savings plan for education expenses and other contingencies**

"(a) BENEFIT AND ELIGIBILITY.—The Secretary concerned may purchase United States savings bonds under this section for a member of the armed forces who is eligible as follows:

"(1) A member who, before completing three years of service on active duty, enters into a commitment to perform qualifying service.

"(2) A member who, after completing three years of service on active duty, but not more than nine years of service on active duty, enters into a commitment to perform qualifying service.

"(3) A member who, after completing nine years of service on active duty, enters into a commitment to perform qualifying service.

"(b) QUALIFYING SERVICE.—For the purposes of this section, qualifying service is service on active duty in a specialty designated by the Secretary concerned as critical to meet requirements (whether or not such specialty is designated as critical to meet wartime or peacetime requirements) for a period that—

"(1) is not less than six years; and

"(2) does not include any part of a period for which the member is obligated to serve on active duty under an enlistment or other agreement for which a benefit has previously been paid under this section.

"(c) FORMS OF COMMITMENT TO ADDITIONAL SERVICE.—For the purposes of this section, a commitment means—

"(1) in the case of an enlisted member, a reenlistment; and

"(2) in the case of a commissioned officer, an agreement entered into with the Secretary concerned.

"(d) AMOUNTS OF BONDS.—The total of the face amounts of the United States savings bonds authorized to be purchased for a member under this section for a commitment shall be as follows:

"(1) In the case of a purchase for a member under paragraph (1) of subsection (a), $5,000.

"(2) In the case of a purchase for a member under paragraph (2) of subsection (a), the amount equal to the excess of $15,000 over the total of the face amounts of any United States savings bonds previously purchased for the member under this section.

"(3) In the case of a purchase for a member under paragraph (3) of subsection (a), the amount equal to the excess of $30,000 over the total of the face amounts of any United States savings bonds previously purchased for the member under this section.

"(e) TOTAL AMOUNT OF BENEFIT.—The total amount of the benefit authorized for a member when United States savings bonds are purchased for the member under this section by reason of a commitment by that member shall be the sum of—

"(1) the purchase price of the United States savings bonds; and

"(2) the amounts that would be deducted and withheld for the payment of individual income taxes if the total amount computed under this subsection for that commitment were paid to the member as a bonus.

"(f) AMOUNT WITHHELD FOR TAXES.—The total amount payable for a member under subsection (e)(2) for a commitment by that member shall be withheld, credited, and otherwise treated in the same manner as amounts deducted and withheld from the basic pay of the member.

"(g) REPAYMENT FOR FAILURE TO COMPLETE OBLIGATED SERVICE.—(1) If a person fails to complete the qualifying service for which the person is obligated under a commitment for which a benefit has been paid under this section, the person shall refund to the United States the amount that bears the same ratio to the total amount paid for the person (as computed under subsection (e)) for that particular commitment as the uncompleted part of the period of qualifying service bears to the total period of the qualifying service for which obligated.

"(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment or other agreement under this section does not discharge the person signing such enlistment or other agreement from a debt arising under the enlistment or agreement, respectively, or this subsection.

"(h) RELATIONSHIP TO OTHER SPECIAL PAYS.—The benefit authorized under this section is in addition to any other bonus or incentive or special pay that is paid or payable to a member under any other provision of this chapter for any portion of the same qualifying service.

"(i) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 324, as added by section 621(b), the following new item:

"325. Incentive bonus: savings plan for education expenses and other contingencies.".

(b) APPLICATION OF AMENDMENT.—Section 325 of title 37, United States Code, as added by subsection (a), shall apply with respect to reenlistments and other agreements for qualifying service, as described in that section, that are entered into on or after October 1, 2001.

(c) FUNDING FOR FISCAL YEAR 2002.—Of the amount authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2002 by section 421, $20,000,000 may be available in that fiscal year for the purchase of United States savings bonds under section 325 of title 37, United States Code, as added by subsection (a).

**SEC. 623. CONTINUATION OF PAYMENT OF SPECIAL AND INCENTIVE PAY AT UNREDUCED RATES DURING STOP LOSS PERIODS.**

(a) AUTHORITY TO CONTINUE.—(1) Chapter 17 of title 37, United States Code, is amended by adding at the end the following new section:

### "§ 909. Special and incentive pay: payment at unreduced rates during suspension of personnel laws

"(a) AUTHORITY TO CONTINUE PAYMENT AT UNREDUCED RATES.—To ensure fairness and recognize the contributions of members of the armed forces to military essential missions, the Secretary of the military department concerned may authorize members who are involuntarily retained on active duty under section 123 or 12305 of title 10 or any other provision of law and who, immediately before retention on active duty, were entitled or eligible for special pay or incentive pay under chapter 5 of this title, to receive that special pay or incentive pay for qualifying service performed during

the retention period, without a reduction in the payment rate below the rate the members received immediately before retention on active duty, notwithstanding any requirement otherwise applicable to that special pay or incentive pay that would reduce the payment rate by reason of the years of service of the members.

"(b) SUSPENSION DURING TIME OF WAR.—Subsection (a) does not apply with respect to a special pay or incentive pay under chapter 5 of this title, whenever the authority to provide that special pay or incentive pay is suspended by the President or the Secretary of Defense during a time of war.

"(c) QUALIFYING SERVICE DEFINED.—In this section, the term 'qualifying service' means service for which a particular special pay or incentive pay is payable under the authority of a provision of chapter 5 of this title.".

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

"909. Special and incentive pay: payment at unreduced rates during suspension of personnel laws.".

(b) APPLICATION OF AMENDMENTS.—Section 909 of title 37, United States Code, as added by subsection (a)(1), shall apply with respect to pay periods beginning after September 11, 2001.

**SEC. 624. RETROACTIVE AUTHORIZATION FOR IMMINENT DANGER PAY FOR SERVICE IN CONNECTION WITH OPERATION ENDURING FREEDOM.**

(a) RETROACTIVE AUTHORIZATION.—The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the areas specified in subsection (b) in connection with the contingency operation known as Operation Enduring Freedom with respect to periods of duty served in those areas during the period beginning on September 19, 2001, and ending October 31, 2001.

(b) SPECIFIED AREAS.—The areas referred to in subsection (a) are the following:

(1) The land areas of Kyrgyzstan, Oman, the United Arab Emirates, and Uzbekistan.

(2) The Red Sea, the Gulf of Aden, the Gulf of Oman, and the Arabian Sea (that portion north of 10° north latitude and west of 68° east longitude).

# Subtitle C—Travel and Transportation Allowances

**SEC. 631. MINIMUM PER DIEM RATE FOR TRAVEL AND TRANSPORTATION ALLOWANCE FOR TRAVEL PERFORMED UPON A CHANGE OF PERMANENT STATION AND CERTAIN OTHER TRAVEL.**

Section 404(d) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(5) Effective January 1, 2003, the per diem rates established under paragraph (2)(A) for travel performed in connection with a change of permanent station or for travel described in paragraph (2) or (3) of subsection (a) shall be equal to the standard per diem rates established in the Federal travel regulation for travel

within the continental United States of civilian employees and their dependents, unless the Secretaries concerned determine that a higher rate for members is more appropriate.".

**SEC. 632. ELIGIBILITY FOR PAYMENT OF SUBSISTENCE EXPENSES ASSOCIATED WITH OCCUPANCY OF TEMPORARY LODGING INCIDENT TO REPORTING TO FIRST PERMANENT DUTY STATION.**

(a) INCLUSION OF OFFICERS.—Subsection (a)(2)(C) of section 404a of title 37, United States Code, is amended by striking "an enlisted member" and inserting "a member".

(b) INCREASE IN MAXIMUM DAILY AUTHORIZED RATE.—Subsection (e) of such section is amended by striking "$110" and inserting "$180".

(c) EFFECTIVE DATE; APPLICATION.—The amendments made by this section shall take effect on January 1, 2002, and apply with respect to an order issued on or after that date to a member of the uniformed services to report to the member's first permanent duty station.

**SEC. 633. REIMBURSEMENT OF MEMBERS FOR MANDATORY PET QUARANTINE FEES FOR HOUSEHOLD PETS.**

(a) INCREASE IN MAXIMUM REIMBURSEMENT AMOUNT.—Section 406(a)(1) of title 37, United States Code, is amended in the last sentence by striking "$275" and inserting "$550".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply with respect to the reimbursement of members of the uniformed services for mandatory pet quarantine fees incurred in connection with the mandatory quarantine of a household pet underway on the date of the enactment of this Act or beginning on or after that date.

**SEC. 634. INCREASED WEIGHT ALLOWANCE FOR TRANSPORTATION OF BAGGAGE AND HOUSEHOLD EFFECTS FOR JUNIOR ENLISTED MEMBERS.**

(a) INCREASED WEIGHT ALLOWANCES.—The table in section 406(b)(1)(C) of title 37, United States Code, is amended—

(1) by striking the two footnotes; and

(2) by striking the items relating to pay grade E–1 through E–4 and inserting the following new items:

| | | |
|---|---|---|
| "E–4 | 7,000 | 8,000 |
| "E–3 | 5,000 | 8,000 |
| "E–2 | 5,000 | 8,000 |
| "E–1 | 5,000 | 8,000". |

(b) EFFECTIVE DATE; APPLICATION.—The amendments made by this section shall take effect on January 1, 2003, and apply with respect to an order in connection with a change of temporary or permanent station issued on or after that date.

**SEC. 635. ELIGIBILITY OF ADDITIONAL MEMBERS FOR DISLOCATION ALLOWANCE.**

(a) ELIGIBILITY FOR PRIMARY DISLOCATION ALLOWANCE.—Subsection (a) of section 407 of title 37, United States Code, is amended—

(1) in paragraph (2), by adding at the end the following new subparagraphs:

"(F) A member whose dependents actually move from the member's place of residence in connection with the performance

of orders for the member to report to the member's first permanent duty station if the move—

"(i) is to the permanent duty station or a designated location; and

"(ii) is an authorized move.

"(G) Each of two members married to each other who—

"(i) is without dependents;

"(ii) actually moves with the member's spouse to a new permanent duty station; and

"(iii) is assigned to family quarters of the United States at or in the vicinity of the new duty station."; and

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

"(4) If a primary dislocation allowance is payable to two members described in paragraph (2)(G) who are married to each other, the amount of the allowance payable to such members shall be the amount otherwise payable under this subsection to the member in the higher pay grade, or to either member if both members are in the same pay grade. The allowance shall be paid jointly to both members.".

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by inserting "(except as provided in subsection (a)(2)(F))" after "first duty station".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to an order issued on or after January 1, 2002, in connection with a change of permanent station or for a member of the uniformed services to report to the member's first permanent duty station.

**SEC. 636. PARTIAL DISLOCATION ALLOWANCE AUTHORIZED FOR HOUSING MOVES ORDERED FOR GOVERNMENT CONVENIENCE.**

(a) AUTHORIZATION OF PARTIAL DISLOCATION ALLOWANCE.—Section 407 of title 37, United States Code, is amended—

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

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

"(f) PARTIAL DISLOCATION ALLOWANCE.—(1) Under regulations prescribed by the Secretary concerned, a member ordered to occupy or vacate family housing provided by the United States to permit the privatization or renovation of housing or for any other reason (other than pursuant to a permanent change of station) may be paid a partial dislocation allowance of $500.

"(2) Effective on the same date that the monthly rates of basic pay for all members are increased under section 1009 of this title or another provision of law, the Secretary of Defense shall adjust the rate of the partial dislocation allowance authorized by this subsection by the percentage equal to the average percentage increase in the rates of basic pay.

"(3) Subsections (c) and (d) do not apply to the partial dislocation allowance authorized by this subsection.".

(b) APPLICATION OF AMENDMENT.—Subsection (f) of title 37, United States Code, as added by subsection (a)(2), shall apply with respect to an order to move for a member of a uniformed service that is issued on or after the date of the enactment of this Act.

**SEC. 637. ALLOWANCES FOR TRAVEL PERFORMED IN CONNECTION WITH MEMBERS TAKING AUTHORIZED LEAVE BETWEEN CONSECUTIVE OVERSEAS TOURS.**

Section 411b(a)(1) of title 37, United States Code, is amended by striking ", or his designee, or to a place no farther distant than his home of record".

**SEC. 638. TRAVEL AND TRANSPORTATION ALLOWANCES FOR FAMILY MEMBERS TO ATTEND BURIAL OF A DECEASED MEMBER OF THE UNIFORMED SERVICES.**

(a) CONSOLIDATION OF AUTHORITIES.—Section 411f of title 37, United States Code, is amended to read as follows:

**"§ 411f. Travel and transportation allowances: transportation for survivors of deceased member to attend the member's burial ceremonies**

"(a) ALLOWANCES AUTHORIZED.—(1) The Secretary concerned may provide round trip travel and transportation allowances to eligible relatives of a member of the uniformed services who dies while on active duty or inactive duty in order that the eligible relatives may attend the burial ceremony of the deceased member.

"(2) The Secretary concerned may also provide round trip travel and transportation allowances to an attendant who accompanies an eligible relative provided travel and transportation allowances under paragraph (1) for travel to the burial ceremony if the Secretary concerned determines that—

"(A) the accompanied eligible relative is unable to travel unattended because of age, physical condition, or other justifiable reason; and

"(B) there is no other eligible relative of the deceased member traveling to the burial ceremony who is eligible for travel and transportation allowances under paragraph (1) and is qualified to serve as the attendant.

"(b) LIMITATIONS.—(1) Except as provided in paragraphs (2) and (3), allowances under subsection (a) are limited to travel and transportation to a location in the United States, Puerto Rico, and the possessions of the United States and may not exceed the rates for two days and the time necessary for such travel.

"(2) If a deceased member was ordered or called to active duty from a place outside the United States, Puerto Rico, or the possessions of the United States, the allowances authorized under subsection (a) may be provided to and from such place and may not exceed the rates for two days and the time necessary for such travel.

"(3) If a deceased member is interred in a cemetery maintained by the American Battle Monuments Commission, the travel and transportation allowances authorized under subsection (a) may be provided to and from such cemetery and may not exceed the rates for two days and the time necessary for such travel.

"(c) ELIGIBLE RELATIVES.—(1) The following members of the family of a deceased member of the uniformed services are eligible for the travel and transportation allowances under subsection (a)(1):

"(A) The surviving spouse (including a remarried surviving spouse) of the deceased member.

"(B) The unmarried child or children of the deceased member referred to in section 401(a)(2) of this title.

"(C) If no person described in subparagraph (A) or (B) is provided travel and transportation allowances under subsection (a)(1), the parent or parents of the deceased member (as defined in section 401(b)(2) of this title).

"(2) If no person described in paragraph (1) is provided travel and transportation allowances under subsection (a)(1), the travel and transportation allowances may be provided to—

"(A) the person who directs the disposition of the remains of the deceased member under section 1482(c) of title 10, or, in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under such section to direct the disposition of the remains if individual identification had been made; and

"(B) up to two additional persons closely related to the deceased member who are selected by the person referred to in subparagraph (A).

"(d) EXPANDED ALLOWANCES RELATED TO RECOVERY OF REMAINS FROM VIETNAM CONFLICT.—(1) The Secretary of Defense may provide round trip travel and transportation allowances for the family of a deceased member of the armed forces who died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains are returned to the United States in order that the family members may attend the burial ceremony of the deceased member.

"(2) The allowances under paragraph (1) shall include round trip transportation from the places of residence of such family members to the burial ceremony and such living expenses and other allowances as the Secretary of Defense considers appropriate.

"(3) For purposes of paragraph (1), eligible family members of the deceased member of the armed forces include the following:

"(A) The surviving spouse (including a remarried surviving spouse) of the deceased member.

"(B) The child or children, including children described in section 401(b)(1) of this title, of the deceased member.

"(C) The parent or parents of the deceased member (as defined in section 401(b)(2) of this title).

"(D) If no person described in subparagraph (A), (B), or (C) is provided travel and transportation allowances under paragraph (1), any brothers, sisters, halfbrothers, halfsisters, stepbrothers, and stepsisters of the deceased member.

"(e) BURIAL CEREMONY DEFINED.—In this section, the term 'burial ceremony' includes the following:

"(1) An interment of casketed or cremated remains.

"(2) A placement of cremated remains in a columbarium.

"(3) A memorial service for which reimbursement is authorized under section 1482(d)(2) of title 10.

"(4) A burial of commingled remains that cannot be individually identified in a common grave in a national cemetery.

"(f) REGULATIONS.—The Secretaries concerned shall prescribe uniform regulations to carry out this section.".

(b) REPEAL OF SUPERSEDED LAWS; CONFORMING AMENDMENT.—(1) Section 1482 of title 10, United States Code, is amended by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(2) Section 1481(a)(9) of such title is amended by striking "section 1482(g)" and inserting "section 1482(f)".

(3) The Funeral Transportation and Living Expense Benefits Act of 1974 (Public Law 93–257; 37 U.S.C. 406 note) is repealed.

(c) APPLICATION OF AMENDMENT.—Section 411f of title 37, United States Code, as amended by subsection (a), shall apply with respect to burial ceremonies of deceased members of the uniformed services that occur on or after the date of the enactment of this Act.

**SEC. 639. FUNDED STUDENT TRAVEL FOR FOREIGN STUDY UNDER AN EDUCATION PROGRAM APPROVED BY A UNITED STATES SCHOOL.**

(a) AVAILABILITY OF ALLOWANCE.—Subsection (a) of section 430 of title 37, United States Code, is amended to read as follows:

"(a) AVAILABILITY OF ALLOWANCE.—(1) Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid the allowance set forth in subsection (b) if the member—

"(A) is assigned to a permanent duty station outside the continental United States;

"(B) is accompanied by the member's dependents at or near that duty station (unless the member's only dependents are in the category of dependent described in paragraph (2)); and

"(C) has an eligible dependent child described in paragraph (2).

"(2) An eligible dependent child of a member referred to in paragraph (1)(C) is a child who—

"(A) is under 23 years of age and unmarried;

"(B) is enrolled in a school in the continental United States for the purpose of obtaining a formal education; and

"(C) is attending that school or is participating in a foreign study program approved by that school and, pursuant to that foreign study program, is attending a school outside the United States for a period of not more than one year.".

(b) TYPE OF ALLOWANCE AUTHORIZED.—Subsection (b) of such section is amended—

(1) by inserting "ALLOWANCE AUTHORIZED.—" after "(b)";

(2) in the first sentence of paragraph (1), by striking "each unmarried dependent child," and all that follows through "the school being attended" and inserting "each eligible dependent child of the member of one annual trip between the school being attended by that child"; and

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

"(3) The transportation allowance paid under paragraph (1) for an annual trip of an eligible dependent child who is attending a school outside the United States may not exceed the transportation allowance that would be paid under this section for the annual trip of that child between the child's school in the continental United States and the member's duty station outside the continental United States and return.".

(c) CLERICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c), by inserting "USE OF AIRLIFT AND SEALIFT COMMAND.—" after "(c)";

(2) in subsection (d)—

(A) by inserting "ATTENDANCE AT SCHOOL IN ALASKA OR HAWAII.—" after "(d)"; and

(B) by striking "subsection (a)(3)" and inserting "subsection (a)(2)";

(3) in subsection (e), by inserting "EXCEPTION.—" after "(e)"; and

(4) in subsection (f), by inserting "DEFINITIONS.—" after "(f)".

(d) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to travel described in subsection (b) of section 430 of title 37, United States Code, as amended by this section, that commences on or after the date of the enactment of this Act.

# Subtitle D—Retirement and Survivor Benefit Matters

**SEC. 641. CONTINGENT AUTHORITY FOR CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS' DISABILITY COMPENSATION AND ENHANCEMENT OF SPECIAL COMPENSATION AUTHORITY.**

(a) RESTORATION OF RETIRED PAY BENEFITS.—Chapter 71 of title 10, United States Code, is amended by adding at the end the following new section:

## "§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation; contingent authority

"(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Subject to subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38, subject to the enactment of qualifying offsetting legislation as specified in subsection (f).

"(b) SPECIAL RULE FOR CHAPTER 61 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.

"(c) EXCEPTION.—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.

"(d) DEFINITIONS.—In this section:

"(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

"(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(12) of title 38.

"(e) EFFECTIVE DATE.—If qualifying offsetting legislation (as defined in subsection (f)) is enacted, the provisions of subsection (a) shall take effect on—

"(1) the first day of the first month beginning after the date of the enactment of such qualifying offsetting legislation; or

"(2) the first day of the fiscal year that begins in the calendar year in which such legislation is enacted, if that date is later than the date specified in paragraph (1).

"(f) EFFECTIVENESS CONTINGENT ON ENACTMENT OF OFFSETTING LEGISLATION.—(1) The provisions of subsection (a) shall be effective only if—

"(A) the President, in the budget for any fiscal year, proposes the enactment of legislation that, if enacted, would be qualifying offsetting legislation; and

"(B) after that budget is submitted to Congress, there is enacted qualifying offsetting legislation.

"(2) In this subsection:

"(A) The term 'qualifying offsetting legislation' means legislation (other than an appropriations Act) that includes provisions that—

"(i) offset fully the increased outlays to be made by reason of the provisions of subsection (a) for each of the first 10 fiscal years beginning after the date of the enactment of such legislation;

"(ii) expressly state that they are enacted for the purpose of the offset described in clause (i); and

"(iii) are included in full on the PayGo scorecard.

"(B) The term 'PayGo scorecard' means the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)) with respect to the ten fiscal years following the date of the enactment of the legislation that is qualifying offsetting legislation for purposes of this section.".

(b) CONFORMING TERMINATION OF SPECIAL COMPENSATION PROGRAM.—Section 1413(a) of such title is amended by adding at the end the following new sentence: "If the provisions of subsection (a) of section 1414 of this title become effective in accordance with subsection (f) of that section, payments under this section shall be terminated effective as of the month beginning on the effective date specified in subsection (e) of that section.".

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

"1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation; contingent authority.".

(d) PROHIBITION OF RETROACTIVE BENEFITS.—If the provisions of subsection (a) of section 1414 of title 10, United States Code, becomes effective in accordance with subsection (f) of that section, no benefit may be paid to any person by reason of those provisions for any period before the effective date specified in subsection (e) of that section.

(e) ENHANCEMENT OF SPECIAL COMPENSATION AUTHORITY.—(1) Subsection (b) of section 1413 of title 10, United States Code,

is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) For payments for months beginning with February 2002 and ending with December 2002, the following:

"(A) For any month for which the retiree has a qualifying service-connected disability rated as total, $300.

"(B) For any month for which the retiree has a qualifying service-connected disability rated as 90 percent, $200.

"(C) For any month for which the retiree has a qualifying service-connected disability rated as 80 percent or 70 percent, $100.

"(D) For any month for which the retiree has a qualifying service-connected disability rated as 60 percent, $50.

"(2) For payments for months beginning with January 2003 and ending with September 2004, the following:

"(A) For any month for which the retiree has a qualifying service-connected disability rated as total, $325.

"(B) For any month for which the retiree has a qualifying service-connected disability rated as 90 percent, $225.

"(C) For any month for which the retiree has a qualifying service-connected disability rated as 80 percent, $125.

"(D) For any month for which the retiree has a qualifying service-connected disability rated as 70 percent, $100.

"(E) For any month for which the retiree has a qualifying service-connected disability rated as 60 percent, $50.

"(3) For payments for months after September 2004, the following:

"(A) For any month for which the retiree has a qualifying service-connected disability rated as total, $350.

"(B) For any month for which the retiree has a qualifying service-connected disability rated as 90 percent, $250.

"(C) For any month for which the retiree has a qualifying service-connected disability rated as 80 percent, $150.

"(D) For any month for which the retiree has a qualifying service-connected disability rated as 70 percent, $125.

"(E) For any month for which the retiree has a qualifying service-connected disability rated as 60 percent, $50.".

(2) Subsection (d)(2) of such section is amended by striking "70 percent" and inserting "60 percent".

(3) The amendments made by this subsection shall take effect on February 1, 2002.

**SEC. 642. SURVIVOR BENEFIT PLAN ANNUITIES FOR SURVIVING SPOUSES OF MEMBERS WHO DIE WHILE ON ACTIVE DUTY AND NOT ELIGIBLE FOR RETIREMENT.**

(a) SURVIVING SPOUSE ANNUITY.—Paragraph (1) of section 1448(d) of title 10, United States Code, is amended to read as follows:

"(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of—

"(A) a member who dies while on active duty after—

"(i) becoming eligible to receive retired pay;

"(ii) qualifying for retired pay except that the member has not applied for or been granted that pay; or

"(iii) completing 20 years of active service but before the member is eligible to retire as a commissioned officer because the member has not completed 10 years of active commissioned service; or

"(B) a member not described in subparagraph (A) who dies in line of duty while on active duty.".

(b) COMPUTATION OF ANNUITY.—Section 1451(c)(1) of such title is amended—

(1) in subparagraph (A)—

(A) by striking "based upon his years of active service when he died." and inserting "when he died determined as follows:

"(i) In the case of an annuity provided under section 1448(d) of this title (other than in a case covered by clause (ii)), such retired pay shall be computed as if the member had been retired under section 1201 of this title on the date of the member's death with a disability rated as total.

"(ii) In the case of an annuity provided under section 1448(d)(1)(A) of this title by reason of the death of a member not in line of duty, such retired pay shall be computed based upon the member's years of active service when he died.

"(iii) In the case of an annuity provided under section 1448(f) of this title, such retired pay shall be computed based upon the member or former member's years of active service when he died computed under section 12733 of this title."; and

(2) in subparagraph (B)(i), by striking "if the member or former member" and all that follows and inserting "as determined under subparagraph (A).".

(c) CONFORMING AMENDMENTS.—(1) The heading for subsection (d) of section 1448 of such title is amended by striking "RETIREMENT-ELIGIBLE".

(2) Subsection (c)(3) of section 1451 of such title is amended by striking "1448(d)(1)(B) or 1448(d)(1)(C)" and inserting "clause (ii) or (iii) of section 1448(d)(1)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 10, 2001, and shall apply with respect to deaths of members of the Armed Forces occurring on or after that date.

# Subtitle E—Other Matters

### SEC. 651. PAYMENT FOR UNUSED LEAVE IN EXCESS OF 60 DAYS ACCRUED BY MEMBERS OF RESERVE COMPONENTS ON ACTIVE DUTY FOR ONE YEAR OR LESS.

(a) ELIGIBILITY.—Section 501(b)(5) of title 37, United States Code, is amended by—

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

(2) striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) adding at the end the following new subparagraph:

"(D) by a member of a reserve component while serving on active duty, full-time National Guard duty, or active duty

for training for a period of more than 30 days but not in excess of 365 days.".

(b) APPLICATION OF AMENDMENT.—Subparagraph (D) of section 501(b)(5) of title 37, United States Code, as added by subsection (a)(3), shall apply with respect to periods of active duty beginning on or after October 1, 2001.

**SEC. 652. ADDITIONAL AUTHORITY TO PROVIDE ASSISTANCE FOR FAMILIES OF MEMBERS OF THE ARMED FORCES.**

(a) AUTHORITY.—During fiscal year 2002, the Secretary of Defense may provide assistance for families of members of the Armed Forces serving on active duty in order to ensure that the children of such members obtain needed child care, education, and other youth services.

(b) PRIMARY PURPOSE OF ASSISTANCE.—The assistance authorized by this section should be directed primarily toward providing needed family support, including child care, education, and other youth services, for children of members of the Armed Forces who are deployed, assigned to duty, or ordered to active duty in connection with the contingency operation known as Operation Enduring Freedom.

**SEC. 653. AUTHORIZATION OF TRANSITIONAL COMPENSATION AND COMMISSARY AND EXCHANGE BENEFITS FOR DEPENDENTS OF COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE AND THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION WHO ARE SEPARATED FOR DEPENDENT ABUSE.**

(a) COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE.—Section 221(a) of the Public Health Service Act (42 U.S.C. 213a(a)) is amended by adding at the end the following new paragraph:

"(17) Section 1059, Transitional compensation and commissary and exchange benefits for dependents of members separated for dependent abuse.".

(b) COMMISSIONED OFFICERS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Section 3(a) of the Act entitled "An Act to revise, codify, and enact into law, title 10 of the United States Code, entitled 'Armed Forces', and title 32 of the United States Code, entitled 'National Guard'", approved August 10, 1956 (33 U.S.C. 857a(a)), is amended by adding at the end the following new paragraph:

"(17) Section 1059, Transitional compensation and commissary and exchange benefits for dependents of members separated for dependent abuse.".

**SEC. 654. TRANSFER OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL BY MEMBERS OF THE ARMED FORCES WITH CRITICAL MILITARY SKILLS.**

(a) AUTHORITY TO TRANSFER TO FAMILY MEMBERS.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

**"§ 3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills**

"(a) IN GENERAL.—Subject to the provisions of this section, each Secretary concerned may, for the purpose of enhancing recruitment and retention of members of the Armed Forces with critical

military skills and at such Secretary's sole discretion, permit an individual described in subsection (b) who is entitled to basic educational assistance under this subchapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

"(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the Armed Forces who, at the time of the approval by the Secretary concerned of the member's request to transfer entitlement to basic educational assistance under this section—

"(1) has completed six years of service in the Armed Forces;

"(2) either—

"(A) has a critical military skill designated by the Secretary concerned for purposes of this section; or

"(B) is in a military specialty designated by the Secretary concerned for purposes of this section as requiring critical military skills; and

"(3) enters into an agreement to serve at least four more years as a member of the Armed Forces.

"(c) ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to basic educational assistance under this section may transfer the individual's entitlement as follows:

"(1) To the individual's spouse.

"(2) To one or more of the individual's children.

"(3) To a combination of the individuals referred to in paragraphs (1) and (2).

"(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by an individual under this section may not exceed 18 months.

"(e) DESIGNATION OF TRANSFEREE.—An individual transferring an entitlement to basic educational assistance under this section shall—

"(1) designate the dependent or dependents to whom such entitlement is being transferred;

"(2) designate the number of months of such entitlement to be transferred to each such dependent; and

"(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

"(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 3031 of this title, an individual approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement at any time after the approval of the individual's request to transfer such entitlement without regard to whether the individual is a member of the Armed Forces when the transfer is executed.

"(2)(A) An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

"(B) The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

"(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

"(1) in the case of entitlement transferred to a spouse, the completion by the individual making the transfer of six years of service in the Armed Forces; or

"(2) in the case of entitlement transferred to a child, both—

"(A) the completion by the individual making the transfer of 10 years of service in the Armed Forces; and

"(B) either—

"(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

"(ii) the attainment by the child of 18 years of age.

"(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

"(2) Except as provided under subsection (e)(2) and subject to paragraphs (4) and (5), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this subchapter in the same manner and at the same rate as the individual from whom the entitlement was transferred.

"(3) The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

"(4) Notwithstanding section 3031 of this title, a child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

"(5) The administrative provisions of this chapter (including the provisions set forth in section 3034(a)(1) of this title) shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible veteran for purposes of such provisions.

"(6) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

"(i) OVERPAYMENT.—(1) In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of this title.

"(2) Except as provided in paragraph (3), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(3) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of basic educational assistance under paragraph (1).

"(3) Paragraph (2) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

"(A) by reason of the death of the individual; or

"(B) for a reason referred to in section 3011(a)(1)(A)(ii)(I) of this title.

"(j) APPROVALS OF TRANSFER SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The Secretary concerned may approve transfers of entitlement to basic educational assistance under this section in a fiscal year only to the extent that appropriations for military personnel are available in that fiscal year for purposes of making deposits in the Department of Defense Education Benefits Fund under section 2006 of title 10 in that fiscal year to cover the present value of future benefits payable from the Fund for the Department of Defense portion of payments of basic educational assistance attributable to increased usage of benefits as a result of such transfers of entitlement in that fiscal year.

"(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2) and shall specify the manner of the applicability of the administrative provisions referred to in subsection (h)(5) to a dependent to whom entitlement is transferred under this section.

"(l) ANNUAL REPORT.—(1) Not later than January 31 each year (beginning in 2003), the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the transfers of entitlement to basic educational assistance under this section that were approved by each Secretary concerned during the preceding fiscal year.

"(2) Each report shall set forth—

"(A) the number of transfers of entitlement under this section that were approved by such Secretary during the preceding fiscal year; or

"(B) if no transfers of entitlement under this section were approved by such Secretary during that fiscal year, a justification for such Secretary's decision not to approve any such transfers of entitlement during that fiscal year.

"(m) SECRETARY CONCERNED DEFINED.—Notwithstanding section 101(25) of this title, in this section, the term 'Secretary concerned' means—

"(1) the Secretary of the Army with respect to matters concerning the Army;

"(2) the Secretary of the Navy with respect to matters concerning the Navy or the Marine Corps;

"(3) the Secretary of the Air Force with respect to matters concerning the Air Force; and

"(4) the Secretary of Defense with respect to matters concerning the Coast Guard, or the Secretary of Transportation when it is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

"3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills.".

(b) TREATMENT UNDER DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.—Section 2006(b)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) The present value of future benefits payable from the Fund for the Department of Defense portion of payments of educational assistance under subchapter II of chapter 30 of title 38 attributable to increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of that title during such period.".

(c) PLAN FOR IMPLEMENTATION.—Not later than June 30, 2002, the Secretary of Defense shall submit to Congress a report describing the manner in which the Secretaries of the military departments and the Secretary of Transportation propose to exercise the authority granted by section 3020 of title 38, United States Code, as added by subsection (a). The report shall include the regulations prescribed under subsection (k) of that section for purposes of the exercise of the authority.

(d) FUNDING FOR FISCAL YEAR 2002.—Of the amount authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2002 by section 421, $30,000,000 may be available in fiscal year 2002 for deposit into the Department of Defense Education Benefits Fund under section 2006 of title 10, United States Code, for purposes of covering payments of amounts under subparagraph (D) of section 2006(b)(2) of such title (as added by subsection (b)), as a result of transfers of entitlement to basic educational assistance under section 3020 of title 38, United States Code (as added by subsection (a)).

# TITLE VII—HEALTH CARE PROVISIONS

### Subtitle A—TRICARE Program Improvements

Sec. 701. Sub-acute and long-term care program reform.
Sec. 702. Prosthetics and hearing aids.
Sec. 703. Durable medical equipment.
Sec. 704. Rehabilitative therapy.
Sec. 705. Report on mental health benefits.
Sec. 706. Clarification of eligibility for reimbursement of travel expenses of adult accompanying patient in travel for specialty care.
Sec. 707. TRICARE program limitations on payment rates for institutional health care providers and on balance billing by institutional and noninstitutional health care providers.
Sec. 708. Improvements in administration of the TRICARE program.

### Subtitle B—Senior Health Care

Sec. 711. Clarifications and improvements regarding the Department of Defense Medicare-Eligible Retiree Health Care Fund.

### Subtitle C—Studies and Reports

Sec. 721. Comptroller General study of health care coverage of members of the reserve components of the Armed Forces and the National Guard.
Sec. 722. Comptroller General study of adequacy and quality of health care provided to women under the defense health program.
Sec. 723. Repeal of obsolete report requirement.
Sec. 724. Comptroller General report on requirement to provide screenings, physical examinations, and other care for certain members.

### Subtitle D—Other Matters

Sec. 731. Prohibition against requiring military retirees to receive health care solely through the Department of Defense.
Sec. 732. Fees for trauma and other medical care provided to civilians.
Sec. 733. Enhancement of medical product development.

Sec. 734. Pilot program providing for Department of Veterans Affairs support in the performance of separation physical examinations.
Sec. 735. Modification of prohibition on requirement of nonavailability statement or preauthorization.
Sec. 736. Transitional health care for members separated from active duty.
Sec. 737. Two-year extension of health care management demonstration program.
Sec. 738. Joint DOD-VA pilot program for providing graduate medical education and training for physicians.

# Subtitle A—TRICARE Program Improvements

**SEC. 701. SUB-ACUTE AND LONG-TERM CARE PROGRAM REFORM.**

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074i the following new section:

**"§ 1074j. Sub-acute care program**

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish an effective, efficient, and integrated sub-acute care benefits program under this chapter (hereinafter referred to in this section as the 'program'). Except as otherwise provided in this section, the types of health care authorized under the program shall be the same as those provided under section 1079 of this title. The Secretary, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this section.

"(b) BENEFITS.—(1) The program shall include a uniform skilled nursing facility benefit that shall be provided in the manner and under the conditions described in section 1861 (h) and (i) of the Social Security Act (42 U.S.C. 1395x (h) and (i)), except that the limitation on the number of days of coverage under section 1812 (a) and (b) of such Act (42 U.S.C. 1395d (a) and (b)) shall not be applicable under the program. Skilled nursing facility care for each spell of illness shall continue to be provided for as long as medically necessary and appropriate.

"(2) In this subsection:

"(A) The term 'skilled nursing facility' has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)).

"(B) The term 'spell of illness' has the meaning given such term in section 1861(a) of such Act (42 U.S.C. 1395x(a)).

"(3) The program shall include a comprehensive, part-time or intermittent home health care benefit that shall be provided in the manner and under the conditions described in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074i the following new item:

"1074j. Sub-acute care program.".

(b) EXTENDED BENEFITS FOR DISABLED BENEFICIARIES.—Section 1079 of title 10, United States Code, is amended by striking subsections (d), (e), and (f) and inserting the following new subsections:

"(d)(1) The Secretary of Defense shall establish a program to provide extended benefits for eligible dependents, which may include the provision of comprehensive health care services, including case management services, to assist in the reduction of the disabling effects of a qualifying condition of an eligible

dependent. Registration shall be required to receive the extended benefits.

"(2) The Secretary of Defense, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this subsection.

"(3) In this subsection:

"(A) The term 'eligible dependent' means a dependent of a member of the uniformed services on active duty for a period of more than 30 days, as described in subparagraph (A), (D), or (I) of section 1072(2) of this title, who has a qualifying condition.

"(B) The term 'qualifying condition' means the condition of a dependent who is moderately or severely mentally retarded, has a serious physical disability, or has an extraordinary physical or psychological condition.

"(e) Extended benefits for eligible dependents under subsection (d) may include comprehensive health care services (including services necessary to maintain, or minimize or prevent deterioration of, function of the patient) and case management services with respect to the qualifying condition of such a dependent, and include, to the extent such benefits are not provided under provisions of this chapter other than under this section, the following:

"(1) Diagnosis.

"(2) Inpatient, outpatient, and comprehensive home health care supplies and services which may include cost effective and medically appropriate services other than part-time or intermittent services (within the meaning of such terms as used in the second sentence of section 1861(m) of the Social Security Act).

"(3) Training, rehabilitation, special education, and assistive technology devices.

"(4) Institutional care in private nonprofit, public, and State institutions and facilities and, if appropriate, transportation to and from such institutions and facilities.

"(5) Custodial care, notwithstanding the prohibition in section 1077(b)(1) of this title.

"(6) Respite care for the primary caregiver of the eligible dependent.

"(7) Such other services and supplies as determined appropriate by the Secretary, notwithstanding the limitations in subsection (a)(13).

"(f)(1) Members shall be required to share in the cost of any benefits provided to their dependents under subsection (d) as follows:

"(A) Members in the lowest enlisted pay grade shall be required to pay the first $25 incurred each month, and members in the highest commissioned pay grade shall be required to pay the first $250 incurred each month. The amounts to be paid by members in all other pay grades shall be determined under regulations to be prescribed by the Secretary of Defense in consultation with the administering Secretaries.

"(B) A member who has more than one dependent incurring expenses in a given month under a plan covered by subsection (d) shall not be required to pay an amount greater than would be required if the member had only one such dependent.

"(2) In the case of extended benefits provided under paragraph (3) or (4) of subsection (e) to a dependent of a member of the uniformed services—

"(A) the Government's share of the total cost of providing such benefits in any month shall not exceed $2,500, except for costs that a member is exempt from paying under paragraph (3); and

"(B) the member shall pay (in addition to any amount payable under paragraph (1)) the amount, if any, by which the amount of such total cost for the month exceeds the Government's maximum share under subparagraph (A).

"(3) A member of the uniformed services who incurs expenses under paragraph (2) for a month for more than one dependent shall not be required to pay for the month under subparagraph (B) of that paragraph an amount greater than the amount the member would otherwise be required to pay under that subparagraph for the month if the member were incurring expenses under that subparagraph for only one dependent.

"(4) To qualify for extended benefits under paragraph (3) or (4) of subsection (e), a dependent of a member of the uniformed services shall be required to use public facilities to the extent such facilities are available and adequate, as determined under joint regulations of the administering Secretaries.

"(5) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to carry out this subsection.".

(c) DEFINITIONS OF CUSTODIAL CARE AND DOMICILIARY CARE.—Section 1072 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(8) The term 'custodial care' means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that—

"(A) can be rendered safely and reasonably by a person who is not medically skilled; or

"(B) is or are designed mainly to help the patient with the activities of daily living.

"(9) The term 'domiciliary care' means care provided to a patient in an institution or homelike environment because—

"(A) providing support for the activities of daily living in the home is not available or is unsuitable; or

"(B) members of the patient's family are unwilling to provide the care.".

(d) CONTINUATION OF INDIVIDUAL CASE MANAGEMENT SERVICES FOR CERTAIN ELIGIBLE BENEFICIARIES.—(1) Notwithstanding the termination of the Individual Case Management Program by subsection (g), the Secretary of Defense shall, in any case in which the Secretary makes the determination described in paragraph (2), continue to provide payment as if such program were in effect for home health care or custodial care services provided to an eligible beneficiary that would otherwise be excluded from coverage under regulations implementing chapter 55 of title 10, United States Code.

(2) The determination referred to in paragraph (1) is a determination that discontinuation of payment for services not otherwise provided under such chapter would result in the provision of services inadequate to meet the needs of the eligible beneficiary and would be unjust to such beneficiary.

(3) For purposes of this subsection, "eligible beneficiary" means a covered beneficiary (as that term is defined in section 1072 of title 10, United States Code) who, before the effective date of this section, was provided custodial care services under the Individual Case Management Program for which the Secretary provided payment.

(e) REPORT ON INITIATIVES REGARDING LONG-TERM CARE.—The Secretary of Defense shall, not later than April 1, 2002, submit to Congress a report on the feasibility and desirability of establishing new initiatives, taking into account chapter 90 of title 5, United States Code, to improve the availability of long-term care for members and retired members of the uniformed services and their families.

(f) REFERENCE IN TITLE 10 TO LONG-TERM CARE PROGRAM IN TITLE 5.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074j (as added by subsection (a)) the following new section:

**"§ 1074k. Long-term care insurance**

"Provisions regarding long-term care insurance for members and certain former members of the uniformed services and their families are set forth in chapter 90 of title 5.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074j (as added by subsection (a)) the following new item:

"1074k. Long-term care insurance.".

(g) CONFORMING AMENDMENTS.—(1) The following provisions of law are repealed:

(A) Section 703 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 682; 10 U.S.C. 1077 note).

(B) Section 8118 of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1260).

(C) Section 8100 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 696).

(2) Section 1079 of title 10, United States Code, is amended in subsection (a) by striking paragraph (17).

**SEC. 702. PROSTHETICS AND HEARING AIDS.**

Section 1077 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

"(16) A hearing aid, but only for a dependent of a member of the uniformed services on active duty and only if the dependent has a profound hearing loss, as determined under standards prescribed in regulations by the Secretary of Defense in consultation with the administering Secretaries.";

(2) in subsection (b)(2), by striking "Hearing aids, orthopedic footwear," and inserting "Orthopedic footwear"; and

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

"(e)(1) Authority to provide a prosthetic device under subsection (a)(15) includes authority to provide the following:

"(A) Any accessory or item of supply that is used in conjunction with the device for the purpose of achieving therapeutic benefit and proper functioning.

"(B) Services necessary to train the recipient of the device in the use of the device.

"(C) Repair of the device for normal wear and tear or damage.

"(D) Replacement of the device if the device is lost or irreparably damaged or the cost of repair would exceed 60 percent of the cost of replacement.

"(2) An augmentative communication device may be provided as a voice prosthesis under subsection (a)(15).

"(3) A prosthetic device customized for a patient may be provided under this section only by a prosthetic practitioner who is qualified to customize the device, as determined under regulations prescribed by the Secretary of Defense in consultation with the administering Secretaries.".

**SEC. 703. DURABLE MEDICAL EQUIPMENT.**

(a) ITEMS AUTHORIZED.—Section 1077 of title 10, United States Code, as amended by section 702, is further amended—

(1) in subsection (a)(12), by striking "such as wheelchairs, iron lungs, and hospital beds" and inserting "which"; and

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

"(f)(1) Items that may be provided to a patient under subsection (a)(12) include the following:

"(A) Any durable medical equipment that can improve, restore, or maintain the function of a malformed, diseased, or injured body part, or can otherwise minimize or prevent the deterioration of the patient's function or condition.

"(B) Any durable medical equipment that can maximize the patient's function consistent with the patient's physiological or medical needs.

"(C) Wheelchairs.

"(D) Iron lungs.

"(E) Hospital beds.

"(2) In addition to the authority to provide durable medical equipment under subsection (a)(12), any customization of equipment owned by the patient that is durable medical equipment authorized to be provided to the patient under this section or section 1079(a)(5) of this title, and any accessory or item of supply for any such equipment, may be provided to the patient if the customization, accessory, or item of supply is essential for—

"(A) achieving therapeutic benefit for the patient;

"(B) making the equipment serviceable; or

"(C) otherwise assuring the proper functioning of the equipment.".

(b) PROVISION OF ITEMS ON RENTAL BASIS.—Paragraph (5) of section 1079(a) of such title is amended to read as follows:

"(5) Durable equipment provided under this section may be provided on a rental basis.".

**SEC. 704. REHABILITATIVE THERAPY.**

Section 1077(a) of title 10, United States Code, as amended by sections 702 and 703, is further amended by inserting after paragraph (16) the following new paragraph:

"(17) Any rehabilitative therapy to improve, restore, or maintain function, or to minimize or prevent deterioration of function, of a patient when prescribed by a physician.".

**SEC. 705. REPORT ON MENTAL HEALTH BENEFITS.**

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall carry out a study to determine the adequacy of the scope and

availability of outpatient mental health benefits provided for members of the Armed Forces and covered beneficiaries under the TRICARE program.

(b) REPORT.—Not later than March 31, 2002, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study, including the conclusions and any recommendations for legislation that the Secretary considers appropriate.

**SEC. 706. CLARIFICATION OF ELIGIBILITY FOR REIMBURSEMENT OF TRAVEL EXPENSES OF ADULT ACCOMPANYING PATIENT IN TRAVEL FOR SPECIALTY CARE.**

Section 1074i of title 10, United States Code, is amended by inserting before the period at the end the following: "and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age".

**SEC. 707. TRICARE PROGRAM LIMITATIONS ON PAYMENT RATES FOR INSTITUTIONAL HEALTH CARE PROVIDERS AND ON BALANCE BILLING BY INSTITUTIONAL AND NONINSTITUTIONAL HEALTH CARE PROVIDERS.**

(a) INSTITUTIONAL PROVIDERS.—Section 1079(j) of title 10, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking "(A)"; and

(B) by striking "may be determined under joint regulations" and inserting "shall be determined under joint regulations";

(2) by redesignating subparagraph (B) of paragraph (2) as paragraph (4), and, in such paragraph, as so redesignated, by striking "subparagraph (A)," and inserting "this subsection,"; and

(3) by inserting before paragraph (4), as redesignated by paragraph (2), the following new paragraph (3):

"(3) A contract for a plan covered by this section shall include a clause that prohibits each provider of services under the plan from billing any person covered by the plan for any balance of charges for services in excess of the amount paid for those services under the joint regulations referred to in paragraph (2), except for any unpaid amounts of deductibles or copayments that are payable directly to the provider by the person.".

(b) NONINSTITUTIONAL PROVIDERS.—Section 1079(h)(4) of such title is amended—

(1) by inserting "(A)" after "(4)"; and

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

"(B) The regulations shall include a restriction that prohibits an individual health care professional (or other noninstitutional health care provider) from billing a beneficiary for services for more than the amount that is equal to—

"(i) the excess of the limiting charge (as defined in section 1848(g)(2) of the Social Security Act (42 U.S.C. 1395w–4(g)(2))) that would be applicable if the services had been provided by the professional (or other provider) as an individual health care professional (or other noninstitutional health care provider) on a nonassignment-related basis under part B of title XVIII of such Act over the amount that is payable by the United States for those services under this subsection, plus

"(ii) any unpaid amounts of deductibles or copayments that are payable directly to the professional (or other provider) by the beneficiary.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act.

**SEC. 708. IMPROVEMENTS IN ADMINISTRATION OF THE TRICARE PROGRAM.**

(a) FLEXIBILITY IN CONTRACTING.—(1) During the one-year period following the date of the enactment of this Act, section 1072(7) of title 10, United States Code, shall be deemed to be amended by striking "the competitive selection of contractors to financially underwrite".

(2) The terms and conditions of any contract to provide health care services under the TRICARE program entered into during the period described in paragraph (1) shall not be considered to be modified or terminated as a result of the termination of such period.

(b) REDUCTION OF CONTRACT START-UP TIME.—Section 1095c(b) of such title is amended—

(1) in paragraph (1)—

(A) by striking "The" and inserting "Except as provided in paragraph (3), the"; and

(B) by striking "contract." and all that follows through "as soon as practicable after the award of the"; and

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

"(3) The Secretary may reduce the nine-month start-up period required under paragraph (1) if—

"(A) the Secretary—

"(i) determines that a shorter period is sufficient to ensure effective implementation of all contract requirements; and

"(ii) submits notification to the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to reduce the nine-month start-up period; and

"(B) 60 days have elapsed since the date of such notification.".

# Subtitle B—Senior Health Care

**SEC. 711. CLARIFICATIONS AND IMPROVEMENTS REGARDING THE DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.**

(a) CLARIFICATION REGARDING COVERAGE.—Subsection (b) of section 1111 of title 10, United States Code, is amended to read as follows:

"(b) In this chapter:

"(1) The term 'uniformed services retiree health care programs' means the provisions of this title or any other provision of law creating an entitlement to or eligibility for health care for a member or former member of a participating uniformed service who is entitled to retired or retainer pay, and an eligible dependent under such program.

"(2) The term 'eligible dependent' means a dependent described in section 1076(a)(2) (other than a dependent of a member on active duty), 1076(b), 1086(c)(2), or 1086(c)(3) of this title.

"(3) The term 'medicare-eligible', with respect to any person, means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(4) The term 'participating uniformed service' means the Army, Navy, Air Force, and Marine Corps, and any other uniformed service that is covered by an agreement entered into under subsection (c).".

(b) PARTICIPATION OF OTHER UNIFORMED SERVICES.—(1) Section 1111 of such title is further amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may enter into an agreement with any other administering Secretary (as defined in section 1072(3) of this title) for participation in the Fund by a uniformed service under the jurisdiction of that Secretary. Any such agreement shall require that Secretary to determine contributions to the Fund on behalf of the members of the uniformed service under the jurisdiction of that Secretary in a manner comparable to the determination with respect to contributions to the Fund made by the Secretary of Defense under section 1116 of this title, and such administering Secretary may make such contributions.".

(2) Section 1112 of such title is amended by adding at the end the following new paragraph:

"(4) Amounts paid into the Fund pursuant to section 1111(c) of this title.".

(3) Section 1115 of such title is amended—

(A) in subsection (a), by inserting "participating" before "uniformed services";

(B) in subparagraphs (A)(ii) and (B)(ii) of subsection (b)(1), by inserting "under the jurisdiction of the Secretary of Defense" after "uniformed services";

(C) in subsection (b)(2), by inserting "(or to the other executive department having jurisdiction over the participating uniformed service)" after "Department of Defense"; and

(D) in subparagraphs (A) and (B) of subsection (c)(1), by inserting "participating" before "uniformed services".

(4) Section 1116(a) of such title is amended in paragraphs (1)(B) and (2)(B) by inserting "under the jurisdiction of the Secretary of Defense" after "uniformed services".

(c) CLARIFICATION OF PAYMENTS FROM THE FUND.—(1) Subsection (a) of section 1113 of such title is amended to read as follows:

"(a) There shall be paid from the Fund amounts payable for the costs of all uniformed service retiree health care programs for the benefit of members or former members of a participating uniformed service who are entitled to retired or retainer pay and are medicare eligible, and eligible dependents who are medicare eligible.".

(2) Such section is further amended by adding at the end the following new subsections:

"(c)(1) In carrying out subsection (a), the Secretary of Defense may transfer periodically from the Fund to applicable appropriations of the Department of Defense, or to applicable appropriations of other departments or agencies, such amounts as the Secretary

determines necessary to cover the costs chargeable to those appropriations for uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible. Such transfers may include amounts necessary for the administration of such programs. Amounts so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred. Upon a determination that all or part of the funds transferred from the Fund are not necessary for the purposes for which transferred, such amounts may be transferred back to the Fund. This transfer authority is in addition to any other transfer authority that may be available to the Secretary.

"(2) A transfer from the Fund under paragraph (1) may not be made to an appropriation after the end of the second fiscal year after the fiscal year that the appropriation is available for obligation. A transfer back to the Fund under paragraph (1) may not be made after the end of the second fiscal year after the fiscal year for which the appropriation to which the funds were originally transferred is available for obligation.

"(d) The Secretary of Defense shall by regulation establish the method or methods for calculating amounts to be transferred under subsection (c). Such method or methods may be based (in whole or in part) on a proportionate share of the volume (measured as the Secretary determines appropriate) of health care services provided or paid for under uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible in relation to the total volume of health care services provided or paid for under Department of Defense health care programs.

"(e) The regulations prescribed by the Secretary under subsection (d) shall be provided to the Comptroller General not less than 60 days before such regulations become effective. The Comptroller General shall, not later than 30 days after receiving such regulations, report to the Secretary of Defense and Congress on the adequacy and appropriateness of the regulations.

"(f) If the Secretary of Defense enters into an agreement with another administering Secretary pursuant to section 1111(c), the Secretary of Defense may take the actions described in subsections (c), (d), and (e) on behalf of the beneficiaries and programs of the other participating uniformed service.".

(d) SOURCE OF FUNDS FOR MONTHLY ACCRUAL PAYMENTS INTO THE FUND.—Section 1116 of such title is further amended—

(1) in subsection (a)(2)(B) (as amended by subsection (b)(4)), by striking the sentence beginning "Amounts paid into"; and

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

"(c) Amounts paid into the Fund under subsection (a) shall be paid from funds available for the health care programs of the participating uniformed services under the jurisdiction of the respective administering Secretaries.".

(e) TECHNICAL AMENDMENTS.—(1) Sections 1111(a), 1115(c)(2), 1116(a)(1)(A), and 1116(a)(2)(A) of such title are amended by striking "Department of Defense retiree health care programs" and inserting "uniformed services retiree health care programs".

(2) The heading for section 1111 of such title is amended to read as follows:

**"§ 1111. Establishment and purpose of Fund; definitions; authority to enter into agreements"**.

(3) The item relating to section 1111 in the table of sections at the beginning of chapter 56 of such title is amended to read as follows:

"1111. Establishment and purpose of Fund; definitions; authority to enter into agreements.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of chapter 56 of title 10, United States Code, by section 713(a)(1) 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).

(g) FIRST YEAR CONTRIBUTIONS.—With respect to contributions under section 1116(a) of title 10, United States Code, for the first year that the Department of Defense Medicare-Eligible Retiree Health Care Fund is established under chapter 56 of such title, if the Board of Actuaries is unable to execute its responsibilities with respect to such section, the Secretary of Defense may make contributions under such section using methods and assumptions developed by the Secretary.

# Subtitle C—Studies and Reports

**SEC. 721. COMPTROLLER GENERAL STUDY OF HEALTH CARE COVERAGE OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES AND THE NATIONAL GUARD.**

(a) REQUIREMENT FOR STUDY.—The Comptroller General shall carry out a study of the needs of members of the reserve components of the Armed Forces and the National Guard and their families for health care benefits. The study shall include the following:

(1) An analysis of how members of the reserve components of the Armed Forces and the National Guard currently obtain coverage for health care benefits when not on active duty, together with statistics on enrollments in health care benefits plans, including—

(A) the percentage of such members who are not covered by an employer health benefits plan;

(B) the percentage of such members who are not covered by an individual health benefits plan; and

(C) the percentage of such members who are not covered by any health insurance or other health benefits plan.

(2) An assessment of the disruptions in health benefits coverage that a mobilization of members of the reserve components of the Armed Forces and the National Guard causes for the members and their families.

(3) An assessment of the cost and effectiveness of various options for preventing or reducing disruptions described in paragraph (2), including—

(A) providing health care benefits to all members of the reserve components of the Armed Forces and the National Guard and their families through the TRICARE program, the Federal Employees Health Benefits Program, or otherwise;

(B) revising and extending the program of transitional medical and dental care that is provided under section 1074b of title 10, United States Code, for members of the Armed Forces upon release from active duty served in support of a contingency operation;

(C) requiring the health benefits plans of such members, including individual health benefits plans and group health benefits plans, to permit such members to elect to resume coverage under such health benefits plans upon release from active duty in support of a contingency operation;

(D) allowing members of the reserve components of the Armed Forces and the National Guard to participate in TRICARE Standard using various cost-sharing arrangements;

(E) providing employers of members of the reserve components of the Armed Forces and the National Guard with the option of paying the costs of participation in the TRICARE program for such members and their families using various cost-sharing arrangements;

(F) providing financial assistance for paying premiums or other subscription charges for continuation of coverage by private sector health insurance or other health benefits plans; and

(G) any other options that the Comptroller General determines advisable to consider.

(b) REPORT.—Not later than May 1, 2002, the Comptroller General shall submit to Congress a report describing the findings of the study conducted under subsection (a).

**SEC. 722. COMPTROLLER GENERAL STUDY OF ADEQUACY AND QUALITY OF HEALTH CARE PROVIDED TO WOMEN UNDER THE DEFENSE HEALTH PROGRAM.**

(a) REQUIREMENT FOR STUDY.—The Comptroller General shall carry out a study of the adequacy and quality of the health care provided to women under chapter 55 of title 10, United States Code.

(b) SPECIFIC CONSIDERATION.—The study shall include an intensive review of the availability and quality of reproductive health care services.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to Congress not later than May 1, 2002.

**SEC. 723. REPEAL OF OBSOLETE REPORT REQUIREMENT.**

Section 701 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 1074g note) is amended by striking subsection (d).

**SEC. 724. COMPTROLLER GENERAL REPORT ON REQUIREMENT TO PROVIDE SCREENINGS, PHYSICAL EXAMINATIONS, AND OTHER CARE FOR CERTAIN MEMBERS.**

(a) REPORT REQUIRED.—The Comptroller General shall prepare a report on the advisability, need, and cost effectiveness of the requirements under section 1074a(d) of title 10, United States Code, that the Secretary of the Army provide medical and dental screenings, physical examinations, and certain dental care for early deploying members of the Selected Reserve. The report shall include

any recommendations for changes to such requirements based on the most current information available on the value of periodic physical examinations and any role such examinations play in monitoring force and individual member pre-deployment and post-deployment health status.

(b) DEADLINE FOR SUBMISSION.—The report required by subsection (a) shall be provided to the Committees on Armed Services of the Senate and the House of Representatives not later than June 1, 2002.

# Subtitle D—Other Matters

**SEC. 731. PROHIBITION AGAINST REQUIRING MILITARY RETIREES TO RECEIVE HEALTH CARE SOLELY THROUGH THE DEPARTMENT OF DEFENSE.**

(a) PROHIBITION.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1086a the following new section:

**"§ 1086b. Prohibition against requiring retired members to receive health care solely through the Department of Defense**

"The Secretary of Defense may not take any action that would require, or have the effect of requiring, a member or former member of the armed forces who is entitled to retired or retainer pay to enroll to receive health care from the Federal Government only through 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 1086a the following new item:

"1086b. Prohibition against requiring retired members to receive health care solely through the Department of Defense.".

**SEC. 732. FEES FOR TRAUMA AND OTHER MEDICAL CARE PROVIDED TO CIVILIANS.**

(a) REQUIREMENT TO IMPLEMENT PROCEDURES.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1079a the following new section:

**"§ 1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected**

"(a) REQUIREMENT TO IMPLEMENT PROCEDURES.—The Secretary of Defense shall implement procedures under which a military medical treatment facility may charge civilians who are not covered beneficiaries (or their insurers) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilians.

"(b) USE OF FEES COLLECTED.—A military medical treatment facility may retain and use the amounts collected under subsection (a) for—

"(1) trauma consortium activities;

"(2) administrative, operating, and equipment costs; and

"(3) readiness training.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1079a the following new item:

"1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected.".

(b) DEADLINE FOR IMPLEMENTATION.—The Secretary of Defense shall begin to implement the procedures required by section 1079b(a) of title 10, United States Code (as added by subsection (a)), not later than one year after the date of the enactment of this Act.

**SEC. 733. ENHANCEMENT OF MEDICAL PRODUCT DEVELOPMENT.**

Section 980 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "Funds"; and

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

"(b) The Secretary of Defense may waive the prohibition in this section with respect to a specific research project to advance the development of a medical product necessary to the armed forces if the research project may directly benefit the subject and is carried out in accordance with all other applicable laws.".

**SEC. 734. PILOT PROGRAM PROVIDING FOR DEPARTMENT OF VETERANS AFFAIRS SUPPORT IN THE PERFORMANCE OF SEPARATION PHYSICAL EXAMINATIONS.**

(a) AUTHORITY.—The Secretary of Defense and the Secretary of Veterans Affairs may jointly carry out a pilot program under which the Secretary of Veterans Affairs may perform the physical examinations required for members of the uniformed services separating from the uniformed services who are in one or more geographic areas designated for the pilot program by the Secretaries.

(b) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for the cost incurred by the Secretary of Veterans Affairs in performing, under the pilot program, the elements of physical examination that are required by the Secretary concerned in connection with the separation of a member of a uniformed service. Reimbursements shall be paid out of funds available for the performance of separation physical examinations of members of that uniformed service in facilities of the uniformed services.

(c) AGREEMENT.—(1) If the Secretary of Defense and the Secretary of Veterans Affairs carry out the pilot program authorized by this section, the Secretaries shall enter into an agreement specifying the geographic areas in which the pilot program is carried out and the means for making reimbursement payments under subsection (b).

(2) The other administering Secretaries shall also enter into the agreement to the extent that the Secretary of Defense determines necessary to apply the pilot program, including the requirement for reimbursement, to the uniformed services not under the jurisdiction of the Secretary of a military department.

(d) CONSULTATION REQUIREMENT.—In developing and carrying out the pilot program, the Secretary of Defense shall consult with the other administering Secretaries.

(e) PERIOD OF PROGRAM.—The Secretary of Defense and the Secretary of Veterans Affairs may carry out the pilot program under this section beginning not later than July 1, 2002, and terminating on December 31, 2005.

(f) REPORTS.—(1) If the Secretary of Defense and the Secretary of Veterans Affairs carry out the pilot program authorized by this section—

(A) not later than January 31, 2004, the Secretaries shall jointly submit to Congress an interim report on the conduct of the pilot program; and

(B) not later than March 1, 2005, the Secretaries shall jointly submit to Congress a final report on the conduct of the pilot program.

(2) Reports under this subsection shall include the Secretaries' assessment, as of the date of the report, of the efficacy of the performance of separation physical examinations as provided for under the pilot program.

(g) DEFINITIONS.—In this section:

(1) The term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

(2) The term "Secretary concerned" has the meaning given that term in section 101(5) of title 37, United States Code.

**SEC. 735. MODIFICATION OF PROHIBITION ON REQUIREMENT OF NONAVAILABILITY STATEMENT OR PREAUTHORIZATION.**

(a) CLARIFICATION OF COVERED BENEFICIARIES.—Subsection (a) of section 721 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–184) is amended by striking "covered beneficiary under chapter 55 of title 10, United States Code, who is enrolled in TRICARE Standard," and inserting "covered beneficiary under TRICARE Standard pursuant to chapter 55 of title 10, United States Code,".

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

(c) WAIVER AUTHORITY.—Such section, as so amended, is further amended by striking subsection (c) and inserting the following new subsections:

"(b) WAIVER AUTHORITY.—The Secretary may waive the prohibition in subsection (a) if—

"(1) the Secretary—

"(A) demonstrates that significant costs would be avoided by performing specific procedures at the affected military medical treatment facility or facilities;

"(B) determines that a specific procedure must be provided at the affected military medical treatment facility or facilities to ensure the proficiency levels of the practitioners at the facility or facilities; or

"(C) determines that the lack of nonavailability statement data would significantly interfere with TRICARE contract administration;

"(2) the Secretary provides notification of the Secretary's intent to grant a waiver under this subsection to covered beneficiaries who receive care at the military medical treatment facility or facilities that will be affected by the decision to grant a waiver under this subsection;

"(3) the Secretary notifies the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to grant a waiver under this subsection,

the reason for the waiver, and the date that a nonavailability statement will be required; and

"(4) 60 days have elapsed since the date of the notification described in paragraph (3).

"(c) WAIVER EXCEPTION FOR MATERNITY CARE.—Subsection (b) shall not apply with respect to maternity care.".

(d) EFFECTIVE DATE.—(1) Subsection (a) of such section is amended by striking "under any new contract for the provision of health care services".

(2) Subsection (d) of such section is amended by striking "take effect on October 1, 2001." and inserting "take effect on the earlier of the following:

"(1) The date that a new contract entered into by the Secretary to provide health care services under TRICARE Standard takes effect.

"(2) The date that is two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002.".

(e) REPORT.—Not later than March 1, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the Secretary's plans for implementing section 721 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as amended by this section.

**SEC. 736. TRANSITIONAL HEALTH CARE FOR MEMBERS SEPARATED FROM ACTIVE DUTY.**

(a) PERMANENT AUTHORITY FOR INVOLUNTARILY SEPARATED MEMBERS AND MOBILIZED RESERVES.—Subsection (a) of section 1145 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2), a member" and all that follows through "of the member)," and inserting "paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2)";

(2) by redesignating paragraph (2) as paragraph (3);

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

"(2) This subsection applies to the following members of the armed forces:

"(A) A member who is involuntarily separated from active duty.

"(B) A member of a reserve component who is separated from active duty to which called or ordered in support of a contingency operation if the active duty is active duty for a period of more than 30 days.

"(C) A member who is separated from active duty for which the member is involuntarily retained under section 12305 of this title in support of a contingency operation.

"(D) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than one year in support of a contingency operation."; and

(4) in paragraph (3), as redesignated by paragraph (2), by striking "involuntarily" each place it appears.

(b) CONFORMING AMENDMENTS.—Such section 1145 is further amended—

(1) in subsection (c)(1), by striking "during the period beginning on October 1, 1990, and ending on December 31, 2001"; and

(2) in subsection (e), by striking the first sentence.

(c) REPEAL OF SUPERSEDED AUTHORITY.—(1) Section 1074b of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 55 of such title is amended by striking the item relating to section 1074b.

(d) TRANSITION PROVISION.—Notwithstanding the repeal of section 1074b of title 10, United States Code, by subsection (c), the provisions of that section, as in effect before the date of the enactment of this Act, shall continue to apply to a member of the Armed Forces who is released from active duty in support of a contingency operation before that date.

**SEC. 737. TWO-YEAR EXTENSION OF HEALTH CARE MANAGEMENT DEMONSTRATION PROGRAM.**

(a) EXTENSION.—Subsection (d) of section 733 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–191) is amended by striking "December 31, 2001" and inserting "December 31, 2003".

(b) REPORT.—Subsection (e) of that section is amended—

(1) by striking "REPORTS.—" and inserting "REPORT.—"; and

(2) by striking "March 15, 2002" and inserting "March 15, 2004".

**SEC. 738. JOINT DOD-VA PILOT PROGRAM FOR PROVIDING GRADUATE MEDICAL EDUCATION AND TRAINING FOR PHYSICIANS.**

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs may jointly carry out a pilot program under which graduate medical education and training is provided to military physicians and physician employees of the Department of Defense and the Department of Veterans Affairs through one or more programs carried out in military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs.

(b) COST-SHARING AGREEMENT.—If the Secretary of Defense and the Secretary of Veterans Affairs carry out a pilot program under subsection (a), the Secretaries shall enter into an agreement for carrying out the pilot program under which means are established for each respective Secretary to assist in paying the costs, with respect to individuals under the jurisdiction of such Secretary, incurred by the other Secretary in providing medical education and training under the pilot program.

(c) USE OF EXISTING AUTHORITIES.—To carry out the pilot program, the Secretary of Defense and the Secretary of Veterans Affairs shall exercise authorities provided to the Secretaries, respectively, under other laws relating to the furnishing or support of medical education and the cooperative use of facilities.

(d) PERIOD OF PROGRAM.—If the Secretary of Defense and the Secretary of Veterans Affairs carry out a pilot program under subsection (a), such pilot program shall begin not later than August 1, 2002, and shall terminate on July 31, 2007.

(e) REPORTS.—If the Secretary of Defense and the Secretary of Veterans Affairs carry out a pilot program under subsection (a), not later than January 31, 2003, and January 31 of each

year thereafter through 2008, the Secretaries shall jointly submit to Congress a report on the pilot program. The report shall cover the preceding year and shall include each Secretary's assessment of the efficacy of providing education and training under the program.

# TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

**Subtitle A—Procurement Management and Administration**

Sec. 801. Management of procurement of services.
Sec. 802. Savings goals for procurements of services.
Sec. 803. Competition requirement for purchase of services pursuant to multiple award contracts.
Sec. 804. Reports on maturity of technology at initiation of major defense acquisition programs.

**Subtitle B—Use of Preferred Sources**

Sec. 811. Applicability of competition requirements to purchases from a required source.
Sec. 812. Extension of mentor-protege program.
Sec. 813. Increase of assistance limitation regarding procurement technical assistance program.

**Subtitle C—Amendments to General Contracting Authorities, Procedures, and Related Matters**

Sec. 821. Amendments to conform with administrative changes in acquisition phase and milestone terminology and to make related adjustments in certain requirements applicable at milestone transition points.
Sec. 822. Follow-on production contracts for products developed pursuant to prototype projects.
Sec. 823. One-year extension of program applying simplified procedures to certain commercial items.
Sec. 824. Acquisition workforce qualifications.
Sec. 825. Report on implementation of recommendations of the acquisition 2005 task force.

**Subtitle D—Other Matters**

Sec. 831. Identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid.
Sec. 832. Codification and modification of provision of law known as the "Berry amendment".
Sec. 833. Personal services contracts to be performed by individuals or organizations abroad.
Sec. 834. Requirements regarding insensitive munitions.
Sec. 835. Inapplicability of limitation to small purchases of miniature or instrument ball or roller bearings under certain circumstances.
Sec. 836. Temporary emergency procurement authority to facilitate the defense against terrorism or biological or chemical attack.

## Subtitle A—Procurement Management and Administration

**SEC. 801. MANAGEMENT OF PROCUREMENT OF SERVICES.**

(a) RESPONSIBILITY OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Section 133(b)(2) of title 10, United States Code, is amended by inserting "of goods and services" after "procurement".

(b) REQUIREMENT FOR MANAGEMENT STRUCTURE.—(1) Chapter 137 of such title is amended by inserting after section 2328 the following new section:

**"§ 2330. Procurement of services: management structure**

"(a) REQUIREMENT FOR MANAGEMENT STRUCTURE.—(1) The Secretary of Defense shall establish and implement a management structure for the procurement of services for the Department of Defense. The management structure shall be comparable to the management structure that applies to the procurement of products by the Department.

"(2) The management structure required by paragraph (1) shall—

"(A) provide for a designated official in each military department to exercise responsibility for the management of the procurement of services for such department;

"(B) provide for a designated official for Defense Agencies and other defense components outside the military departments to exercise responsibility for the management of the procurement of services for such Defense Agencies and components;

"(C) include a means by which employees of the departments, Defense Agencies, and components are accountable to such designated officials for carrying out the requirements of subsection (b); and

"(D) establish specific dollar thresholds and other criteria for advance approvals of purchases under subsection (b)(1)(C) and delegations of activity under subsection (b)(2).

"(b) CONTRACTING RESPONSIBILITIES OF DESIGNATED OFFICIALS.—(1) The responsibilities of an official designated under subsection (a) shall include, with respect to the procurement of services for the military department or Defense Agencies and components by that official, the following:

"(A) Ensuring that the services are procured by means of contracts or task orders that are in the best interests of the Department of Defense and are entered into or issued and managed in compliance with applicable statutes, regulations, directives, and other requirements, regardless of whether the services are procured through a contract or task order of the Department of Defense or through a contract entered into or task order issued by an official of the United States outside the Department of Defense.

"(B) Analyzing data collected under section 2330a of this title on contracts that are entered into for the procurement of services.

"(C) Approving, in advance, any procurement of services above the thresholds established pursuant to subsection (a)(2)(D) that is to be made through the use of—

"(i) a contract or task order that is not a performance-based contract or task order; or

"(ii) a contract entered into, or a task order issued, by an official of the United States outside the Department of Defense.

"(2) The responsibilities of a designated official may be delegated to other employees of the Department of Defense in accordance with the criteria established by the Secretary of Defense.

"(c) DEFINITION.—In this section, the term 'performance-based', with respect to a contract or a task order means that the contract or task order, respectively, includes the use of performance work statements that set forth requirements in clear, specific, and objective terms with measurable outcomes.".

(2) Not later than 180 days after the date of the enactment of this Act—

(A) the Secretary of Defense shall establish and implement the management structure required under section 2330 of title 10, United States Code (as added by paragraph (1)); and

(B) the Under Secretary of Defense for Acquisition, Technology, and Logistics shall issue guidance for officials in the management structure established under such section 2330 regarding how to carry out their responsibilities under that section.

(c) TRACKING OF PROCUREMENT OF SERVICES.—Chapter 137 of title 10, United States Code, as amended by subsection (b), is further amended by inserting after section 2330 the following new section:

**"§ 2330a. Procurement of services: tracking of purchases**

"(a) DATA COLLECTION REQUIRED.—The Secretary of Defense shall establish a data collection system to provide management information with regard to each purchase of services by a military department or Defense Agency in excess of the simplified acquisition threshold, regardless of whether such a purchase is made in the form of a contract, task order, delivery order, military interdepartmental purchase request, or any other form of interagency agreement.

"(b) DATA TO BE COLLECTED.—The data required to be collected under subsection (a) includes the following:

"(1) The services purchased.

"(2) The total dollar amount of the purchase.

"(3) The form of contracting action used to make the purchase.

"(4) Whether the purchase was made through—

"(A) a performance-based contract, performance-based task order, or other performance-based arrangement that contains firm fixed prices for the specific tasks to be performed;

"(B) any other performance-based contract, performance-based task order, or performance-based arrangement; or

"(C) any contract, task order, or other arrangement that is not performance based.

"(5) In the case of a purchase made through an agency other than the Department of Defense, the agency through which the purchase is made.

"(6) The extent of competition provided in making the purchase and whether there was more than one offer.

"(7) Whether the purchase was made from—

"(A) a small business concern;

"(B) a small business concern owned and controlled by socially and economically disadvantaged individuals; or

"(C) a small business concern owned and controlled by women.

"(c) COMPATIBILITY WITH DATA COLLECTION SYSTEM FOR INFORMATION TECHNOLOGY PURCHASES.—To the maximum extent practicable, a single data collection system shall be used to collect data under this section and information under section 2225 of this title.

"(d) DEFINITIONS.—In this section:

"(1) The term 'performance-based', with respect to a contract, task order, or arrangement, means that the contract, task order, or arrangement, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.

"(2) The definitions set forth in section 2225(f) of this title for the terms 'simplified acquisition threshold', 'small business concern', 'small business concern owned and controlled by socially and economically disadvantaged individuals', and 'small business concern owned and controlled by women' shall apply.".

(d) REQUIREMENT FOR PROGRAM REVIEW STRUCTURE.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue and implement a policy that applies to the procurement of services by the Department of Defense a program review structure that is similar to the one developed for and applied to the procurement of weapon systems by the Department of Defense.

(2) The program review structure for the procurement of services shall, at a minimum, include the following:

(A) Standards for determining which procurements should be subject to review by either the senior procurement executive of a military department or the senior procurement executive of the Department of Defense under such section, including criteria based on dollar thresholds, program criticality, or other appropriate measures.

(B) Appropriate key decision points at which those reviews should take place.

(C) A description of the specific matters that should be reviewed.

(e) COMPTROLLER GENERAL REVIEW.—Not later than 90 days after the date on which the Secretary issues the policy required by subsection (d) and the Under Secretary of Defense for Acquisition, Technology, and Logistics issues the guidance required by subsection (b)(2), the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives an assessment of the compliance with the requirements of this section and the amendments made by this section.

(f) DEFINITIONS.—In this section:

(1) The term "senior procurement executive" means the official designated as the senior procurement executive under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

(2) The term "performance-based", with respect to a contract or a task order means that the contract or task order, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.

(g) CLERICAL AMENDMENTS.—(1) The heading for section 2331 of title 10, United States Code, is amended to read as follows:

**"§ 2331. Procurement of services: contracts for professional and technical services".**

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking the item relating to section 2331 and inserting the following new items:

"2330. Procurement of services: management structure.
"2330a. Procurement of services: tracking of purchases.
"2331. Procurement of services: contracts for professional and technical services.".

**SEC. 802. SAVINGS GOALS FOR PROCUREMENTS OF SERVICES.**

(a) GOALS.—(1) It shall be an objective of the Department of Defense to achieve savings in expenditures for procurements of services through the use of—

(A) performance-based services contracting;

(B) appropriate competition for task orders under services contracts; and

(C) program review, spending analyses, and improved management of services contracts.

(2) In furtherance of such objective, the Department of Defense shall have goals to use improved management practices to achieve, over 10 fiscal years, reductions in the total amount that would otherwise be expended by the Department for the procurement of services (other than military construction) in a fiscal year by the amount equal to 10 percent of the total amount of the expenditures of the Department for fiscal year 2000 for procurement of services (other than military construction), as follows:

(A) By fiscal year 2002, a three percent reduction.

(B) By fiscal year 2003, a four percent reduction.

(C) By fiscal year 2004, a five percent reduction.

(D) By fiscal year 2011, a ten percent reduction.

(b) ANNUAL REPORT.—Not later than March 1, 2002, and annually thereafter through March 1, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made toward meeting the objective and goals established in subsection (a). Each report shall include, at a minimum, the following information:

(1) A summary of the steps taken or planned to be taken in the fiscal year of the report to improve the management of procurements of services.

(2) A summary of the steps planned to be taken in the following fiscal year to improve the management of procurements of services.

(3) An estimate of the amount that will be expended by the Department of Defense for procurements of services in the fiscal year of the report.

(4) An estimate of the amount that will be expended by the Department of Defense for procurements of services in the following fiscal year.

(5) An estimate of the amount of savings that, as a result of improvement of the management practices used by the Department of Defense, will be achieved for the procurement of services by the Department in the fiscal year of the report and in the following fiscal year.

**SEC. 803. COMPETITION REQUIREMENT FOR PURCHASE OF SERVICES PURSUANT TO MULTIPLE AWARD CONTRACTS.**

(a) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense

shall promulgate in the Department of Defense Supplement to the Federal Acquisition Regulation regulations requiring competition in the purchase of services by the Department of Defense pursuant to multiple award contracts.

(b) CONTENT OF REGULATIONS.—(1) The regulations required by subsection (a) shall provide, at a minimum, that each individual purchase of services in excess of $100,000 that is made under a multiple award contract shall be made on a competitive basis unless a contracting officer of the Department of Defense—

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

(i) one of the circumstances described in paragraphs (1) through (4) of section 2304c(b) of title 10, United States Code, applies to such individual purchase; or

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

(B) justifies the determination in writing.

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

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

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

(3) Notwithstanding paragraph (2), notice may be provided to fewer than all contractors offering such services under a multiple award contract described in subsection (c)(2)(A) if notice is provided to as many contractors as practicable.

(4) A purchase may not be made pursuant to a notice that is provided to fewer than all contractors under paragraph (3) unless—

(A) offers were received from at least three qualified contractors; or

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

(c) DEFINITIONS.—In this section:

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

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

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

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

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

(3) The term "Defense Agency" has the meaning given that term in section 101(a)(11) of title 10, United States Code.

(d) APPLICABILITY.—The regulations promulgated by the Secretary pursuant to subsection (a) shall take effect not later than 180 days after the date of the enactment of this Act and shall apply to all individual purchases of services that are made under multiple award contracts on or after the effective date, without regard to whether the multiple award contracts were entered into before, on, or after such effective date.

**SEC. 804. REPORTS ON MATURITY OF TECHNOLOGY AT INITIATION OF MAJOR DEFENSE ACQUISITION PROGRAMS.**

(a) REPORTS REQUIRED.—Not later than March 1 of each of years 2003 through 2006, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the requirement in paragraph 4.7.3.2.2.2 of Department of Defense Instruction 5000.2, as in effect on the date of enactment of this Act, that technology must have been demonstrated in a relevant environment (or, preferably, in an operational environment) to be considered mature enough to use for product development in systems integration.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall—

(1) identify each case in which a major defense acquisition program entered system development and demonstration during the preceding calendar year and into which key technology has been incorporated that does not meet the technological maturity requirement described in subsection (a), and provide a justification for why such key technology was incorporated; and

(2) identify any determination of technological maturity with which the Deputy Under Secretary of Defense for Science and Technology did not concur and explain how the issue has been or will be resolved.

(c) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term "major defense acquisition program" has the meaning given that term in section 139(a)(2) of title 10, United States Code.

# Subtitle B—Use of Preferred Sources

**SEC. 811. APPLICABILITY OF COMPETITION REQUIREMENTS TO PURCHASES FROM A REQUIRED SOURCE.**

(a) CONDITIONS FOR COMPETITION.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following:

## "§ 2410n. Products of Federal Prison Industries: procedural requirements

"(a) MARKET RESEARCH BEFORE PURCHASE.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, the Secretary of Defense shall conduct market research to determine whether the Federal Prison Industries product is comparable in price, quality, and time of delivery to products available from the private sector.

"(b) LIMITED COMPETITION REQUIREMENT.—If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, and time of delivery to products available from the private sector, the Secretary shall use competitive procedures for the procurement of the product. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries for award in accordance with the specifications and evaluation factors specified in the solicitation.".

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

"2410n. Products of Federal Prison Industries: procedural requirements.".

(b) APPLICABILITY.—Section 2410n of title 10, United States Code (as added by subsection (a)), shall apply to purchases initiated on or after October 1, 2001.

**SEC. 812. EXTENSION OF MENTOR-PROTEGE PROGRAM.**

Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note) is amended—

(1) in subsection (j)—

(A) in paragraph (1), by striking "September 30, 2002" and inserting "September 30, 2005"; and

(B) in paragraph (2), by striking "September 30, 2005" and inserting "September 30, 2008"; and

(2) in subsection (l)(3), by striking "2004" and inserting "2007".

**SEC. 813. INCREASE OF ASSISTANCE LIMITATION REGARDING PROCUREMENT TECHNICAL ASSISTANCE PROGRAM.**

Section 2414(a)(1) of title 10, United States Code, is amended by striking "$300,000" and inserting "$600,000".

# Subtitle C—Amendments to General Contracting Authorities, Procedures, and Related Matters

**SEC. 821. AMENDMENTS TO CONFORM WITH ADMINISTRATIVE CHANGES IN ACQUISITION PHASE AND MILESTONE TERMINOLOGY AND TO MAKE RELATED ADJUSTMENTS IN CERTAIN REQUIREMENTS APPLICABLE AT MILESTONE TRANSITION POINTS.**

(a) ACQUISITION PHASE TERMINOLOGY.—The following provisions of title 10, United States Code, are amended by striking "engineering and manufacturing development" each place it appears and inserting "system development and demonstration": sections 2366(c) and 2434(a), and subsections (b)(3)(A)(i), (c)(3)(A), and (h)(1) of section 2432.

(b) MILESTONE TRANSITION POINTS.—(1) Section 811(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–211), is amended by striking "Milestone I approval, Milestone II approval, or Milestone III approval (or the equivalent) of a major automated information system" and inserting "approval of a major automated information system at Milestone B or C or for full rate production, or an equivalent approval,".

(2) Department of Defense Directive 5000.1, as revised in accordance with subsection (b) of section 811 of such Act, shall be further revised as necessary to comply with subsection (c) of such section, as amended by paragraph (1), within 60 days after the date of the enactment of this Act.

(c) ADJUSTMENTS TO REQUIREMENT FOR DETERMINATION OF QUANTITY FOR LOW-RATE INITIAL PRODUCTION.—Section 2400(a) of title 10, United States Code, is amended—

(1) by striking "milestone II" each place it appears in paragraphs (1)(A), (2), (4) and (5) and inserting "milestone B"; and

(2) in paragraph (2), by striking "engineering and manufacturing development" and inserting "system development and demonstration".

(d) ADJUSTMENTS TO REQUIREMENTS FOR BASELINE DESCRIPTION AND THE RELATED LIMITATION.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (b), by striking "engineering and manufacturing development" and inserting "system development and demonstration"; and

(2) in subsection (c)—

(A) in paragraph (1), by striking "demonstration and validation" and inserting "system development and demonstration";

(B) in paragraph (2), by striking "engineering and manufacturing development" and inserting "production and deployment"; and

(C) in paragraph (3), by striking "production and deployment" and inserting "full rate production".

**SEC. 822. FOLLOW-ON PRODUCTION CONTRACTS FOR PRODUCTS DEVELOPED PURSUANT TO PROTOTYPE PROJECTS.**

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

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

"(f) FOLLOW-ON PRODUCTION CONTRACTS.—(1) A transaction entered into under this section for a prototype project that satisfies the conditions set forth in subsection (d)(1)(B)(i) may provide for the award of a follow-on production contract to the participants in the transaction for a specific number of units at specific target prices. The number of units specified in the transaction shall be determined on the basis of a balancing of the level of the investment made in the project by the participants other than the Federal Government with the interest of the Federal Government in having competition among sources in the acquisition of the product or products prototyped under the project.

"(2) A follow-on production contract provided for in a transaction under paragraph (1) may be awarded to the participants in the transaction without the use of competitive procedures, notwithstanding the requirements of section 2304 of title 10, United States Code, if—

"(A) competitive procedures were used for the selection of parties for participation in the transaction;

"(B) the participants in the transaction successfully completed the prototype project provided for in the transaction;

"(C) the number of units provided for in the follow-on production contract does not exceed the number of units specified in the transaction for such a follow-on production contract; and

"(D) the prices established in the follow-on production contract do not exceed the target prices specified in the transaction for such a follow-on production contract.".

**SEC. 823. ONE-YEAR EXTENSION OF PROGRAM APPLYING SIMPLIFIED PROCEDURES TO CERTAIN COMMERCIAL ITEMS.**

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, 2002" and inserting "January 1, 2003".

**SEC. 824. ACQUISITION WORKFORCE QUALIFICATIONS.**

(a) QUALIFICATIONS.—Section 1724 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that, in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold referred to in section 2304(g) of this title, an employee of the Department of Defense or member of the armed forces (other than the Coast Guard) must, except as provided in subsections (c) and (d)—";

(B) in paragraph (1)—

(i) by striking "mandatory"; and

(ii) by striking "at the grade level" and all that follows and inserting "(A) in the case of an employee, serving in the position within the grade of the General Schedule in which the employee is serving, and (B) in the case of a member of the armed forces, in the member's grade;"; and

(C) in paragraph (3)(A), by inserting a comma after "business";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) GS–1102 SERIES POSITIONS AND SIMILAR MILITARY POSITIONS.—(1) The Secretary of Defense shall require that in order to qualify to serve in a position in the Department of Defense that is in the GS–1102 occupational series an employee or potential employee of the Department of Defense meet the requirements set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to serve in such a position an employee or potential employee meet any of the requirements of paragraphs (1) and (2) of that subsection.

"(2) The Secretary of Defense shall require that in order for a member of the armed forces to be selected for an occupational specialty within the armed forces that (as determined by the Secretary) is similar to the GS–1102 occupational series a member of the armed forces meet the requirements set forth in paragraph (3) of subsection (a). The Secretary may not require that in order to be selected for such an occupational specialty a member meet

any of the requirements of paragraphs (1) and (2) of that subsection."; and

(3) by striking subsections (c) and (d) inserting the following new subsections:

"(c) EXCEPTIONS.—The qualification requirements imposed by the Secretary of Defense pursuant to subsections (a) and (b) shall not apply to an employee of the Department of Defense or member of the armed forces who—

"(1) served as a contracting officer with authority to award or administer contracts in excess of the simplified acquisition threshold on or before September 30, 2000;

"(2) served, on or before September 30, 2000, in a position either as an employee in the GS–1102 series or as a member of the armed forces in a similar occupational specialty;

"(3) is in the contingency contracting force; or

"(4) is described in subsection (e)(1)(B).

"(d) WAIVER.—The acquisition career program board concerned may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the board certifies that the individual possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. Such document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.

"(e) DEVELOPMENTAL OPPORTUNITIES.—(1) The Secretary of Defense may—

"(A) establish or continue one or more programs for the purpose of recruiting, selecting, appointing, educating, qualifying, and developing the careers of individuals to meet the requirements in subparagraphs (A) and (B) of subsection (a)(3);

"(B) appoint individuals to developmental positions in those programs; and

"(C) separate from the civil service after a three-year probationary period any individual appointed under this subsection who fails to meet the requirements described in subsection (a)(3).

"(2) To qualify for any developmental program described in paragraph (1)(B), an individual shall have—

"(A) been awarded a baccalaureate degree, with a grade point average of at least 3.0 (or the equivalent), from an accredited institution of higher education authorized to grant baccalaureate degrees; or

"(B) completed at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management.

"(f) CONTINGENCY CONTRACTING FORCE.—The Secretary shall establish qualification requirements for the contingency contracting force consisting of members of the armed forces whose mission is to deploy in support of contingency operations and other operations of the Department of Defense, including—

"(1) completion of at least 24 semester credit hours or the equivalent of study from an accredited institution of higher education or similar educational institution in any of the disciplines of accounting, business, finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, or organization and management; or

"(2) passing an examination that demonstrates skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours or the equivalent of study in any of the disciplines described in paragraph (1).".

(b) CLERICAL AMENDMENT.—Section 1732(c)(2) of such title is amended by inserting a comma after "business".

**SEC. 825. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE ACQUISITION 2005 TASK FORCE.**

(a) REQUIREMENT FOR REPORT.—Not later than March 1, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the extent of the implementation of the recommendations set forth in the final report of the Department of Defense Acquisition 2005 Task Force, entitled "Shaping the Civilian Acquisition Workforce of the Future".

(b) CONTENT OF REPORT.—The report shall include the following:

(1) For each recommendation in the final report that is being implemented or that the Secretary plans to implement—

(A) a summary of all actions that have been taken to implement the recommendation; and

(B) a schedule, with specific milestones, for completing the implementation of the recommendation.

(2) For each recommendation in the final report that the Secretary does not plan to implement—

(A) the reasons for the decision not to implement the recommendation; and

(B) a summary of any alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plans to take to address concerns raised in the final report about the size and structure of the acquisition workforce of the Department of Defense.

(c) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after the date on which the Secretary submits the report required by subsection (a), the Comptroller General shall—

(1) review the report; and

(2) submit to the committees referred to in subsection (a) the Comptroller General's assessment of the extent to which the report—

(A) complies with the requirements of this section; and

(B) addresses the concerns raised in the final report about the size and structure of the acquisition workforce of the Department of Defense.

# Subtitle D—Other Matters

**SEC. 831. IDENTIFICATION OF ERRORS MADE BY EXECUTIVE AGENCIES IN PAYMENTS TO CONTRACTORS AND RECOVERY OF AMOUNTS ERRONEOUSLY PAID.**

(a) PROGRAM REQUIRED.—(1) Chapter 35 of title 31, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RECOVERY AUDITS

**"§ 3561. Identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid**

"(a) PROGRAM REQUIRED.—The head of each executive agency that enters into contracts with a total value in excess of $500,000,000 in a fiscal year shall carry out a cost-effective program for identifying any errors made in paying the contractors and for recovering any amounts erroneously paid to the contractors.

"(b) RECOVERY AUDITS AND ACTIVITIES.—A program of an executive agency under subsection (a) shall include recovery audits and recovery activities. The head of the executive agency shall determine, in accordance with guidance provided under subsection (c), the classes of contracts to which recovery audits and recovery activities are appropriately applied.

"(c) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance for the conduct of programs under subsection (a). The guidance shall include the following:

"(1) Definitions of the terms 'recovery audit' and 'recovery activity' for the purposes of the programs.

"(2) The classes of contracts to which recovery audits and recovery activities are appropriately applied under the programs.

"(3) Protections for the confidentiality of—

"(A) sensitive financial information that has not been released for use by the general public; and

"(B) information that could be used to identify a person.

"(4) Policies and procedures for ensuring that the implementation of the programs does not result in duplicative audits of contractor records.

"(5) Policies regarding the types of contracts executive agencies may use for the procurement of recovery services, including guidance for use, in appropriate circumstances, of a contingency contract pursuant to which the head of an executive agency may pay a contractor an amount equal to a percentage of the total amount collected for the United States pursuant to that contract.

"(6) Protections for a contractor's records and facilities through restrictions on the authority of a contractor under a contract for the procurement of recovery services for an executive agency—

"(A) to require the production of any record or information by any person other than an officer, employee, or agent of the executive agency;

"(B) to establish, or otherwise have, a physical presence on the property or premises of any private sector entity for the purposes of performing the contract; or

"(C) to act as agents for the Government in the recovery of funds erroneously paid to contractors.

"(7) Policies for the appropriate types of management improvement programs authorized by section 3564 of this title that executive agencies may carry out to address overpayment problems and the recovery of overpayments.

**"§ 3562. Disposition of recovered funds**

"(a) AVAILABILITY OF FUNDS FOR RECOVERY AUDITS AND ACTIVITIES PROGRAM.—Funds collected under a program carried out by an executive agency under section 3561 of this title shall be available to the executive agency for the following purposes:

"(1) To reimburse the actual expenses incurred by the executive agency in the administration of the program.

"(2) To pay contractors for services under the program in accordance with the guidance issued under section 3561(c)(5) of this title.

"(b) FUNDS NOT USED FOR PROGRAM.—Any amounts erroneously paid by an executive agency that are recovered under such a program of an executive agency and are not used to reimburse expenses or pay contractors under subsection (a)—

"(1) shall be credited to the appropriations from which the erroneous payments were made, shall be merged with other amounts in those appropriations, and shall be available for the purposes and period for which such appropriations are available; or

"(2) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts.

"(c) PRIORITY OF OTHER AUTHORIZED DISPOSITIONS.—Notwithstanding subsection (b), the authority under such subsection may not be exercised to use, credit, or deposit funds collected under such a program as provided in that subsection to the extent that any other provision of law requires or authorizes the crediting of such funds to a nonappropriated fund instrumentality, revolving fund, working-capital fund, trust fund, or other fund or account.

**"§ 3563. Sources of recovery services**

"(a) CONSIDERATION OF AVAILABLE RECOVERY RESOURCES.—(1) In carrying out a program under section 3561 of this title, the head of an executive agency shall consider all resources available to that official to carry out the program.

"(2) The resources considered by the head of an executive agency for carrying out the program shall include the resources available to the executive agency for such purpose from the following sources:

"(A) The executive agency.

"(B) Other departments and agencies of the United States.

"(C) Private sector sources.

"(b) COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS.—Before entering into a contract with a private sector source for the performance of services under a program of the executive agency carried out under section 3561 of this title, the head of an executive agency shall comply with—

"(1) any otherwise applicable provisions of Office of Management and Budget Circular A–76; and

"(2) any other applicable provision of law or regulation with respect to the selection between employees of the United States and private sector sources for the performance of services.

**"§ 3564. Management improvement programs**

"In accordance with guidance provided by the Director of the Office of Management and Budget under section 3561 of this title, the head of an executive agency required to carry out a program under such section 3561 may carry out a program for improving management processes within the executive agency—

"(1) to address problems that contribute directly to the occurrence of errors in the paying of contractors of the executive agency; or

"(2) to improve the recovery of overpayments due to the agency.

**"§ 3565. Relationship to authority of inspectors general**

"Nothing in this subchapter shall be construed as impairing the authority of an Inspector General under the Inspector General Act of 1978 or any other provision of law.

**"§ 3566. Privacy protections**

"Any nongovernmental entity that, in the course of recovery auditing or recovery activity under this subchapter, obtains information that identifies an individual or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual, may not disclose the information for any purpose other than such recovery auditing or recovery activity and governmental oversight of such activity, unless disclosure for that other purpose is authorized by the individual to the executive agency that contracted for the performance of the recovery auditing or recovery activity.

**"§ 3567. Definition of executive agency**

"Notwithstanding section 102 of this title, in this subchapter, the term 'executive agency' has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).".

(2) The table of sections at the beginning of chapter 35 of such title is amended by adding at the end the following:

"SUBCHAPTER VI—RECOVERY AUDITS

"3561. Identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid.
"3562. Disposition of recovered funds.
"3563. Sources of recovery services.
"3564. Management improvement programs.
"3565. Relationship to authority of inspectors general.
"3566. Privacy protections.
"3567. Definition of executive agency.".

(b) REPORTS.—(1) Not later than 30 months after the date of the enactment of this Act, and annually for each of the first two years following the year of the first report, the Director of the Office of Management and Budget shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, a report

on the implementation of subchapter VI of chapter 35 of title 31, United States Code (as added by subsection (a)).

(2) Each report shall include—

(A) a general description and evaluation of the steps taken by the heads of executive agencies to carry out the programs under such subchapter, including any management improvement programs carried out under section 3564 of such title 31;

(B) the costs incurred by executive agencies to carry out the programs under such subchapter; and

(C) the amounts recovered under the programs under such subchapter.

(c) CONFORMING AMENDMENT.—Section 3501 of such title is amended by inserting "and subchapter VI" after "section 3513".

**SEC. 832. CODIFICATION AND MODIFICATION OF PROVISION OF LAW KNOWN AS THE "BERRY AMENDMENT".**

(a) BUY AMERICAN REQUIREMENTS.—(1) Chapter 148 of title 10, United States Code, is amended by inserting after section 2533 the following new section:

**"§ 2533a. Requirement to buy certain articles from American sources; exceptions**

"(a) REQUIREMENT.—Except as provided in subsections (c) through (h), funds appropriated or otherwise available to the Department of Defense may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

"(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

"(1) An article or item of—

"(A) food;

"(B) clothing;

"(C) tents, tarpaulins, or covers;

"(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

"(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

"(2) Specialty metals, including stainless steel flatware.

"(3) Hand or measuring tools.

"(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Defense or the Secretary of the military department concerned determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

"(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

"(1) Procurements outside the United States in support of combat operations.

"(2) Procurements by vessels in foreign waters.

"(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

"(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

"(1) such procurement is necessary—

"(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

"(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

"(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of this title.

"(f) EXCEPTION FOR CERTAIN FOODS.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

"(g) EXCEPTION FOR COMMISSARIES, EXCHANGES, AND OTHER NONAPPROPRIATED FUND INSTRUMENTALITIES.—Subsection (a) does not apply to items purchased for resale purposes in commissaries, exchanges, or nonappropriated fund instrumentalities operated by the Department of Defense.

"(h) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of this title.

"(i) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

"(j) GEOGRAPHIC COVERAGE.—In this section, the term 'United States' includes the possessions of the United States.".

(2) The table of sections at the beginning of subchapter V of such chapter is amended by inserting after the item relating to section 2533 the following new item:

"2533a. Requirement to buy certain articles from American sources; exceptions.".

(b) REPEAL OF SOURCE PROVISIONS.—The following provisions of law are repealed:

(1) Section 9005 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 10 U.S.C. 2241 note).

(2) Section 8109 of the Department of Defense Appropriations Act, 1997 (as contained in section 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 2241 note).

**SEC. 833. PERSONAL SERVICES CONTRACTS TO BE PERFORMED BY INDIVIDUALS OR ORGANIZATIONS ABROAD.**

Section 2 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669) is amended by adding at the end the following:

"(n) exercise the authority provided in subsection (c), upon the request of the Secretary of Defense or the head of any other department or agency of the United States, to enter into personal service contracts with individuals to perform services in support of the Department of Defense or such other department or agency, as the case may be.".

**SEC. 834. REQUIREMENTS REGARDING INSENSITIVE MUNITIONS.**

(a) REQUIREMENT TO ENSURE SAFETY.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2388 the following new section:

**"§ 2389. Ensuring safety regarding insensitive munitions**

"The Secretary of Defense shall ensure, to the extent practicable, that insensitive munitions under development or procurement are safe throughout development and fielding when subject to unplanned stimuli.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2388 the following new item:

"2389. Ensuring safety regarding insensitive munitions.".

(b) REPORT REQUIREMENT.—At the same time that the budgets for fiscal years 2003 through 2005 are submitted to Congress under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on insensitive munitions. The reports shall include the following:

(1) The number of waivers granted pursuant to Department of Defense Regulation 5000.2–R (June 2001) during the preceding fiscal year, together with a discussion of the justifications for the waivers.

(2) Identification of the funding proposed for insensitive munitions in the budget with which the report is submitted, together with an explanation of the proposed funding.

**SEC. 835. INAPPLICABILITY OF LIMITATION TO SMALL PURCHASES OF MINIATURE OR INSTRUMENT BALL OR ROLLER BEARINGS UNDER CERTAIN CIRCUMSTANCES.**

(a) IN GENERAL.—Section 2534 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) INAPPLICABILITY TO CERTAIN CONTRACTS TO PURCHASE BALL BEARINGS OR ROLLER BEARINGS.—(1) This section does not apply with respect to a contract or subcontract to purchase items described in subsection (a)(5) (relating to ball bearings and roller bearings) for which—

"(A) the amount of the purchase does not exceed $2,500;

"(B) the precision level of the ball or roller bearings to be procured under the contract or subcontract is rated lower than the rating known as Annual Bearing Engineering Committee (ABEC) 5 or Roller Bearing Engineering Committee (RBEC) 5, or an equivalent of such rating;

"(C) at least two manufacturers in the national technology and industrial base that are capable of producing the ball or roller bearings have not responded to a request for quotation issued by the contracting activity for that contract or subcontract; and

"(D) no bearing to be procured under the contract or subcontract has a basic outside diameter (exclusive of flange diameters) in excess of 30 millimeters.

"(2) Paragraph (1) does not apply to a purchase if such purchase would result in the total amount of purchases of ball bearings and roller bearings to satisfy requirements under Department of Defense contracts, using the authority provided in such paragraph, to exceed $200,000 during the fiscal year of such purchase.".

(b) APPLICABILITY.—Subsection (j) of such section 2534 (as added by subsection (a)) shall apply with respect to a contract or subcontract to purchase ball bearings or roller bearings entered into after the date of the enactment of this Act.

**SEC. 836. TEMPORARY EMERGENCY PROCUREMENT AUTHORITY TO FACILITATE THE DEFENSE AGAINST TERRORISM OR BIOLOGICAL OR CHEMICAL ATTACK.**

(a) INCREASED FLEXIBILITY FOR USE OF STREAMLINED PROCEDURES.—The following special authorities apply to procurements of property and services by or for the Department of Defense for which funds are obligated during fiscal year 2002 and 2003:

(1) MICROPURCHASE AND SIMPLIFIED ACQUISITION THRESHOLDS.—For any procurement of property or services for use (as determined by the Secretary of Defense) to facilitate the defense against terrorism or biological or chemical attack against the United States—

(A) the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement; and

(B) the term "simplified acquisition threshold" means, in the case of any contract to be awarded and performed, or purchase to be made—

(i) inside the United States in support of a contingency operation, $250,000; or

(ii) outside the United States in support of a contingency operation, $500,000.

(2) COMMERCIAL ITEM TREATMENT FOR PROCUREMENTS OF BIOTECHNOLOGY.—For any procurement of biotechnology property or biotechnology services for use (as determined by the Secretary of Defense) to facilitate the defense against terrorism or biological attack against the United States, the procurement shall be treated as being a procurement of commercial items.

(b) RECOMMENDATIONS FOR ADDITIONAL EMERGENCY PROCUREMENT AUTHORITY TO SUPPORT ANTI-TERRORISM OPERATIONS.—Not later than March 1, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the Secretary's recommendations for additional emergency procurement authority that the Secretary (subject to the direction of the President) determines necessary to support operations carried out to combat terrorism.

(c) TERMINATION OF AUTHORITY.—No contract may be entered into pursuant to the authority provided in subsection (a) after September 30, 2003.

# TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

**Subtitle A—Duties and Functions of Department of Defense Officers**

Sec. 901. Deputy Under Secretary of Defense for Personnel and Readiness.
Sec. 902. Sense of Congress on functions of new Office of Force Transformation in the Office of the Secretary of Defense.
Sec. 903. Suspension of reorganization of engineering and technical authority policy within the Naval Sea Systems Command pending report to congressional committees.

**Subtitle B—Space Activities**

Sec. 911. Joint management of space programs.
Sec. 912. Requirement to establish in the Air Force an officer career field for space.
Sec. 913. Secretary of Defense report on space activities.
Sec. 914. Comptroller General assessment of implementation of recommendations of Space Commission.
Sec. 915. Sense of Congress regarding officers recommended to be appointed to serve as Commander of United States Space Command.

**Subtitle C—Reports**

Sec. 921. Revised requirement for Chairman of the Joint Chiefs of Staff to advise Secretary of Defense on the assignment of roles and missions to the Armed Forces.
Sec. 922. Revised requirements for content of annual report on joint warfighting experimentation.
Sec. 923. Repeal of requirement for one of three remaining required reports on activities of Joint Requirements Oversight Council.
Sec. 924. Revised joint report on establishment of national collaborative information analysis capability.

**Subtitle D—Other Matters**

Sec. 931. Conforming amendments relating to change of name of Military Airlift Command to Air Mobility Command.
Sec. 932. Organizational realignment for Navy Director for Expeditionary Warfare.

## Subtitle A—Duties and Functions of Department of Defense Officers

### SEC. 901. DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 136 the following new section:

### "§ 136a. Deputy Under Secretary of Defense for Personnel and Readiness

"(a) There is a Deputy Under Secretary of Defense for Personnel and Readiness, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Personnel and Readiness shall assist the Under Secretary of Defense for Personnel and Readiness in the performance of the duties of that position. The Deputy Under Secretary of Defense for Personnel and Readiness shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 136 the following new item:

"136a. Deputy Under Secretary of Defense for Personnel and Readiness.".

(b) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after "Deputy Under Secretary of Defense for Policy." the following:

"Deputy Under Secretary of Defense for Personnel and Readiness.".

(c) REDUCTION IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE.—(1) Section 138(a) of title 10, United States Code, is amended by striking "nine" and inserting "eight".

(2) Section 5315 of title 5, United States Code, is amended by striking "(9)" after "Assistant Secretaries of Defense" and inserting "(8)".

(d) EFFECTIVE DATE.—The amendments made by subsection (c) shall take effect on the date on which a person is first appointed as Deputy Under Secretary of Defense for Personnel and Readiness.

**SEC. 902. SENSE OF CONGRESS ON FUNCTIONS OF NEW OFFICE OF FORCE TRANSFORMATION IN THE OFFICE OF THE SECRETARY OF DEFENSE.**

(a) FINDINGS.—Congress finds the following:

(1) The Armed Forces should give careful consideration to implementing transformation to meet operational challenges and exploit opportunities resulting from changes in the threat environment and the emergence of new technologies.

(2) The Department of Defense 2001 Quadrennial Defense Review Report, issued by the Secretary of Defense on September 30, 2001, states that "The purpose of transformation is to maintain or improve U.S. military preeminence in the face of potential disproportionate discontinuous changes in the strategic environment. Transformation must therefore be focused on emerging strategic and operational challenges and the opportunities created by these challenges.".

(3) That report further states that "To support the transformation effort, and to foster innovation and experimentation, the Department will establish a new office reporting directly to the Secretary and Deputy Secretary of Defense.".

(b) SENSE OF CONGRESS ON FUNCTIONS OF OFFICE OF FORCE TRANSFORMATION.—It is the sense of Congress that the Director of the Office of Force Transformation within the Office of the Secretary of Defense should advise the Secretary on—

(1) development of force transformation strategies to ensure that the military of the future is prepared to dissuade potential military competitors and, if that fails, to fight and win decisively across the spectrum of future conflict;

(2) ensuring a continuous and broadly focused transformation process;

(3) service and joint acquisition and experimentation efforts, funding for experimentation efforts, promising operational concepts and technologies, and other transformation activities, as appropriate; and

(4) development of service and joint operational concepts, transformation implementation strategies, and risk management strategies.

(c) SENSE OF CONGRESS ON FUNDING.—It is the sense of Congress that the Secretary of Defense should consider providing funding adequate for sponsoring selective prototyping efforts, war games, and studies and analyses and for appropriate staffing, as recommended by the Director of the Office of Force Transformation referred to in subsection (b).

**SEC. 903. SUSPENSION OF REORGANIZATION OF ENGINEERING AND TECHNICAL AUTHORITY POLICY WITHIN THE NAVAL SEA SYSTEMS COMMAND PENDING REPORT TO CONGRESSIONAL COMMITTEES.**

(a) SUSPENSION OF REORGANIZATION.—During the period specified in subsection (b), the Secretary of the Navy may not grant final approval for any reorganization in engineering or technical authority policy for the Naval Sea Systems Command or any of the subsidiary activities of that command.

(b) REPORT.—Subsection (a) applies during the period beginning on the date of the enactment of this Act and ending 45 days after the date on which the Secretary submits to the congressional defense committees a report that sets forth in detail the Navy's plans and justification for the reorganization of engineering and technical authority policy within the Naval Sea Systems Command.

# Subtitle B—Space Activities

**SEC. 911. JOINT MANAGEMENT OF SPACE PROGRAMS.**

(a) IN GENERAL.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 134 the following new chapter:

## "CHAPTER 135—SPACE PROGRAMS

"Sec.

"2271. Management of space programs: joint program offices and officer management programs.

### "§ 2271. Management of space programs: joint program offices and officer management programs

"(a) JOINT PROGRAM OFFICES.—The Secretary of Defense shall take appropriate actions to ensure, to the maximum extent practicable, that space development and acquisition programs of the Department of Defense are carried out through joint program offices.

"(b) OFFICER MANAGEMENT PROGRAMS.—(1) The Secretary of Defense shall take appropriate actions to ensure, to the maximum extent practicable, that—

"(A) Army, Navy, and Marine Corps officers, as well as Air Force officers, are assigned to the space development and acquisition programs of the Department of Defense; and

"(B) Army, Navy, and Marine Corps officers, as well as Air Force officers, are eligible, on the basis of qualification, to hold leadership positions within the joint program offices referred to in subsection (a).

"(2) The Secretary of Defense shall designate those positions in the Office of the National Security Space Architect of the Department of Defense (or any successor office) that qualify as joint duty assignment positions for purposes of chapter 38 of this title.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of such subtitle and the beginning of part IV of such subtitle are amended by inserting after the item relating to chapter 134 the following new item:

**"135. Space Programs ..... 2271"**.

**SEC. 912. REQUIREMENT TO ESTABLISH IN THE AIR FORCE AN OFFICER CAREER FIELD FOR SPACE.**

(a) IN GENERAL.—Chapter 807 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 8084. Officer career field for space**

"The Secretary of the Air Force shall establish and implement policies and procedures to develop a career field for officers in the Air Force with technical competence in space-related matters to have the capabilty to—

"(1) develop space doctrine and concepts of space operations;

"(2) develop space systems; and

"(3) operate space systems.".

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

"8084. Officer career field for space.".

**SEC. 913. SECRETARY OF DEFENSE REPORT ON SPACE ACTIVITIES.**

(a) REPORT.—(1) Not later than March 15, 2002, 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 problems in the management and organization of the Department of Defense for space activities that were identified in the report of the Space Commission, including a description of the actions taken by the Secretary to address those problems.

(2) For purposes of paragraph (1), the term "report of the Space Commission" means the report of the Commission To Assess United States National Security Space Management and Organization, dated January 11, 2001, and submitted to Congress under section 1623 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 815).

(b) MATTERS TO BE INCLUDED.—The report of the Secretary of Defense under subsection (a) shall include a description of, and rationale for, each of the following:

(1) Actions taken by the Secretary of Defense to realign management authorities and responsibilities for space programs of the Department of Defense.

(2) Steps taken to—

(A) establish a career field for officers in the Air Force with technical competence in space-related matters, in accordance with section 8084 of title 10, United States Code, as added by section 912;

(B) ensure that officers in that career field are treated fairly and objectively within the overall Air Force officer personnel system; and

(C) ensure that the primary responsibility for management of that career field is assigned appropriately.

(3) Other steps taken within the Air Force to ensure proper priority for development of space systems.

(4) Steps taken to ensure that the interests of the Army, the Navy, and the Marine Corps in development and acquisition of space systems, and in the operations of space systems, are protected.

(5) Steps taken by the Office of the Secretary of Defense and the military departments to ensure that the Army, Navy, and Marine Corps continue to develop military and civilian personnel with the required expertise in space system development, acquisition, management, and operation.

(6) Steps taken to ensure adequate oversight by the Office of the Secretary of Defense of the actions of the Under Secretary of the Air Force as the acquisition executive for Department of Defense space programs.

(7) Steps taken to improve oversight of the level of funding provided for space programs and the level of personnel resources provided for space programs.

**SEC. 914. COMPTROLLER GENERAL ASSESSMENT OF IMPLEMENTATION OF RECOMMENDATIONS OF SPACE COMMISSION.**

(a) ASSESSMENT.—(1) The Comptroller General shall carry out an assessment through February 15, 2003, of the actions taken by the Secretary of Defense in implementing the recommendations in the report of the Space Commission that are applicable to the Department of Defense.

(2) For purposes of paragraph (1), the term "report of the Space Commission" means the report of the Commission To Assess United States National Security Space Management and Organization, dated January 11, 2001, and submitted to Congress under section 1623 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 815).

(b) REPORTS.—Not later than February 15 of each of 2002 and 2003, the Comptroller General 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 assessment carried out under subsection (a). Each report shall set forth the results of the assessment as of the date of such report.

**SEC. 915. SENSE OF CONGRESS REGARDING OFFICERS RECOMMENDED TO BE APPOINTED TO SERVE AS COMMANDER OF UNITED STATES SPACE COMMAND.**

It is the sense of Congress that the position of commander of the United States Space Command, a position of importance and responsibility designated by the President under section 601 of title 10, United States Code, to carry the grade of general or admiral and covered by section 604 of that title, relating to recommendations by the Secretary of Defense for appointment of officers to certain four-star joint officer positions, should be filled by the best qualified officer of the Army, Navy, Air Force, or Marine Corps, rather than by officers from the same armed force that has traditionally provided officers for that position.

# Subtitle C—Reports

**SEC. 921. REVISED REQUIREMENT FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF TO ADVISE SECRETARY OF DEFENSE ON THE ASSIGNMENT OF ROLES AND MISSIONS TO THE ARMED FORCES.**

(a) ASSESSMENT DURING QUADRENNIAL DEFENSE REVIEW.—Section 118(e) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(e) CJCS REVIEW.—";

(2) by designating the second and third sentences as paragraph (3); and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following new paragraph:

"(2) The Chairman shall include as part of that assessment the Chairman's assessment of the assignment of functions (or roles and missions) to the armed forces, together with any recommendations for changes in assignment that the Chairman considers necessary to achieve maximum efficiency of the armed forces. In preparing the assessment under this paragraph, the Chairman shall consider (among other matters) the following:

"(A) Unnecessary duplication of effort among the armed forces.

"(B) Changes in technology that can be applied effectively to warfare.".

(b) REPEAL OF REQUIREMENT FOR TRIENNIAL REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—Section 153 of such title is amended—

(1) by striking "(a) PLANNING; ADVICE; POLICY FORMULATION.—"; and

(2) by striking subsection (b).

(c) ASSESSMENT WITH RESPECT TO 2001 QDR.—With respect to the 2001 Quadrennial Defense Review, the Chairman of the Joint Chiefs of Staff shall submit to Congress a separate assessment of functions (or roles and missions) of the Armed Forces in accordance with paragraph (2) of section 118(e) of title 10, United States Code, as added by subsection (a)(3). Such assessment shall be based on the findings in the 2001 Quadrennial Defense Review, issued by the Secretary of Defense on September 30, 2001, and shall be submitted to Congress not later than one year after the date of the enactment of this Act.

**SEC. 922. REVISED REQUIREMENTS FOR CONTENT OF ANNUAL REPORT ON JOINT WARFIGHTING EXPERIMENTATION.**

Section 485(b) of title 10, United States Code, is amended—

(1) in paragraph (4)(E)—

(A) by inserting "(by lease or by purchase)" after "acquire"; and

(B) by inserting "(including any prototype)" after "or equipment"; and

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

"(6) A specific assessment of whether there is a need for a major force program for funding—

"(A) joint warfighting experimentation; and

"(B) the development and acquisition of any technology the value of which has been empirically demonstrated through such experimentation.".

**SEC. 923. REPEAL OF REQUIREMENT FOR ONE OF THREE REMAINING REQUIRED REPORTS ON ACTIVITIES OF JOINT REQUIREMENTS OVERSIGHT COUNCIL.**

Section 916 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–231) is amended—

(1) in the section heading, by striking "**SEMIANNUAL REPORT**" and inserting "**REPORTS**";

(2) in subsection (a)—

(A) by striking "SEMIANNUAL REPORT" in the subsection heading and inserting "REPORTS REQUIRED"; and

(B) by striking "five semiannual"; and

(3) in subsection (b)—

(A) by striking "September 1, 2002,"; and

(B) by striking the period at the end of the last sentence and inserting ", except that the last report shall cover all of the preceding fiscal year.".

**SEC. 924. REVISED JOINT REPORT ON ESTABLISHMENT OF NATIONAL COLLABORATIVE INFORMATION ANALYSIS CAPABILITY.**

(a) REVISED REPORT.—At the same time as the submission of the budget for fiscal year 2003 under section 1105 of title 31, United States Code, the Secretary of Defense and the Director of Central Intelligence shall submit to the congressional defense committees and the congressional intelligence committees a revised report assessing alternatives for the establishment of a national collaborative information analysis capability.

(b) MATTERS INCLUDED.—The revised report shall cover the same matters required to be included in the DOD/CIA report, except that the alternative architectures assessed in the revised report shall be limited to architectures that include the participation of all Federal agencies involved in the collection of intelligence. The revised report shall also identify any issues that would require legislative or regulatory changes in order to implement the preferred architecture identified in the revised report.

(c) OFFICIALS TO BE CONSULTED.—The revised report shall be prepared after consultation with all appropriate Federal officials, including the following:

(1) The Secretary of the Treasury.

(2) The Secretary of Commerce.

(3) The Secretary of State.

(4) The Attorney General.

(5) The Director of the Federal Bureau of Investigation.

(6) The Administrator of the Drug Enforcement Administration.

(d) DEFINITIONS.—In this section:

(1) DOD/CIA REPORT.—The term "DOD/CIA report" means the joint report required by section 933 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–237).

(2) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

## Subtitle D—Other Matters

**SEC. 931. CONFORMING AMENDMENTS RELATING TO CHANGE OF NAME OF MILITARY AIRLIFT COMMAND TO AIR MOBILITY COMMAND.**

(a) CURRENT REFERENCES IN TITLE 10, UNITED STATES CODE.—Section 2554(d) of title 10, United States Code, and section 2555(a) of such title (relating to transportation services for international Girl Scout events) are amended by striking "Military Airlift Command" and inserting "Air Mobility Command".

(b) REPEAL OF OBSOLETE PROVISION.—Section 8074 of such title is amended by striking subsection (c).

(c) REFERENCES IN TITLE 37, UNITED STATES CODE.—Sections 430(c) and 432(b) of title 37, United States Code, are amended by striking "Military Airlift Command" and inserting "Air Mobility Command".

**SEC. 932. ORGANIZATIONAL REALIGNMENT FOR NAVY DIRECTOR FOR EXPEDITIONARY WARFARE.**

Section 5038(a) of title 10, United States Code, is amended by striking "Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments" and inserting "office of the Deputy Chief of Naval Operations with responsibility for warfare requirements and programs".

# TITLE X—GENERAL PROVISIONS

**Subtitle A—Department of Defense Civilian Personnel**

Sec. 1001. Transfer authority.
Sec. 1002. Incorporation of classified annex.
Sec. 1003. Authorization of supplemental appropriations for fiscal year 2001.
Sec. 1004. United States contribution to NATO common-funded budgets in fiscal year 2002.
Sec. 1005. Limitation on funds for Bosnia and Kosovo peacekeeping operations for fiscal year 2002.
Sec. 1006. Maximum amount for National Foreign Intelligence Program.
Sec. 1007. Clarification of applicability of interest penalties for late payment of interim payments due under contracts for services.
Sec. 1008. Reliability of Department of Defense financial statements.
Sec. 1009. Financial Management Modernization Executive Committee and financial feeder systems compliance process.
Sec. 1010. Authorization of funds for ballistic missile defense programs or combating terrorism programs of the Department of Defense.

**Subtitle B—Naval Vessels and Shipyards**

Sec. 1011. Authority to transfer naval vessels to certain foreign countries.
Sec. 1012. Sale of Glomar Explorer to the lessee.
Sec. 1013. Leasing of Navy ships for university national oceanographic laboratory system.
Sec. 1014. Increase in limitations on administrative authority of the Navy to settle admiralty claims.

**Subtitle C—Counter-Drug Activities**

Sec. 1021. Extension and restatement of authority to provide Department of Defense support for counter-drug activities of other governmental agencies.
Sec. 1022. Extension of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities.
Sec. 1023. Authority to transfer Tracker aircraft currently used by Armed Forces for counter-drug purposes.
Sec. 1024. Limitation on use of funds for operation of Tethered Aerostat Radar System pending submission of required report.

**Subtitle D—Strategic Forces**

Sec. 1031. Repeal of limitation on retirement or dismantlement of strategic nuclear delivery systems.
Sec. 1032. Air Force bomber force structure.
Sec. 1033. Additional element for revised nuclear posture review.
Sec. 1034. Report on options for modernization and enhancement of missile wing helicopter support.

**Subtitle E—Other Department of Defense Provisions**

Sec. 1041. Secretary of Defense recommendation on need for Department of Defense review of proposed Federal agency actions to consider possible impact on national defense.
Sec. 1042. Department of Defense reports to Congress to be accompanied by electronic version upon request.
Sec. 1043. Department of Defense gift authorities.
Sec. 1044. Acceleration of research, development, and production of medical countermeasures for defense against biological warfare agents.
Sec. 1045. Chemical and biological protective equipment for military personnel and civilian employees of the Department of Defense.
Sec. 1046. Sale of goods and services by Naval Magazine, Indian Island, Alaska.
Sec. 1047. Report on procedures and guidelines for embarkation of civilian guests on naval vessels for public affairs purposes.
Sec. 1048. Technical and clerical amendments.
Sec. 1049. Termination of referendum requirement regarding continuation of military training on island of Vieques, Puerto Rico, and imposition of additional conditions on closure of live-fire training range.

**Subtitle F—Other Matters**

Sec. 1061. Assistance for firefighters.
Sec. 1062. Extension of times for Commission on the Future of the United States Aerospace industry to report and to terminate.
Sec. 1063. Appropriations to Radiation Exposure Compensation Trust Fund.
Sec. 1064. Waiver of vehicle weight limits during periods of national emergency.
Sec. 1065. Repair, restoration, and preservation of Lafayette Escadrille Memorial, Marnes-la-Coquette, France.

# 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 2002 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. INCORPORATION OF CLASSIFIED ANNEX.**

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee of conference to accompany the conference report on the bill S. 1438 of the One Hundred Seventh Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

**SEC. 1003. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2001.**

Amounts authorized to be appropriated to the Department of Defense for fiscal year 2001 in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in title I of the Supplemental Appropriations Act, 2001 (Public Law 107–20).

**SEC. 1004. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2002.**

(a) FISCAL YEAR 2002 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2002 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2001, of funds appropriated for fiscal years before fiscal year 2002 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $708,000 for the Civil Budget.

(2) Of the amount provided in section 301(a)(1), $175,849,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

**SEC. 1005. LIMITATION ON FUNDS FOR BOSNIA AND KOSOVO PEACEKEEPING OPERATIONS FOR FISCAL YEAR 2002.**

(a) LIMITATION.—Of the amounts authorized to be appropriated by section 301(a)(24) for the Overseas Contingency Operations Transfer Fund—

(1) no more than $1,315,600,000 may be obligated for incremental costs of the Armed Forces for Bosnia peacekeeping operations; and

(2) no more than $1,528,600,000 may be obligated for incremental costs of the Armed Forces for Kosovo peacekeeping operations.

(b) PRESIDENTIAL WAIVER.—The President may waive the limitation in subsection (a)(1), or the limitation in subsection (a)(2), after submitting to Congress the following:

(1) The President's written certification that the waiver is necessary in the national security interests of the United States.

(2) The President's written certification that exercising the waiver will not adversely affect the readiness of United States military forces.

(3) A report setting forth the following:

(A) The reasons that the waiver is necessary in the national security interests of the United States.

(B) The specific reasons that additional funding is required for the continued presence of United States military forces participating in, or supporting, Bosnia peacekeeping operations, or Kosovo peacekeeping operations, as the case may be, for fiscal year 2002.

(C) A discussion of the impact on the military readiness of United States Armed Forces of the continuing deployment of United States military forces participating in, or supporting, Bosnia peacekeeping operations, or Kosovo peacekeeping operations, as the case may be.

(4) A supplemental appropriations request for the Department of Defense for such amounts as are necessary for the additional fiscal year 2002 costs associated with United States military forces participating in, or supporting, Bosnia or Kosovo peacekeeping operations.

(c) PEACEKEEPING OPERATIONS DEFINED.—For the purposes of this section:

(1) The term "Bosnia peacekeeping operations" has the meaning given such term in section 1004(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2112).

(2) The term "Kosovo peacekeeping operations"—

(A) means the operation designated as Operation Joint Guardian and any other operation involving the participation of any of the Armed Forces in peacekeeping or peace enforcement activities in and around Kosovo; and

(B) includes, with respect to Operation Joint Guardian or any such other operation, each activity that is directly related to the support of the operation.

**SEC. 1006. MAXIMUM AMOUNT FOR NATIONAL FOREIGN INTELLIGENCE PROGRAM.**

The total amount authorized to be appropriated for the National Foreign Intelligence Program for fiscal year 2002 is the sum of the following:

(1) The total amount set forth for the National Foreign Intelligence Program for fiscal year 2002 in the message of the President to Congress transmitted by the President on June 27, 2001, and printed as House Document 107–92, captioned "Communication of the President of the United States Transmitting Requests for Fiscal Year 2002 Budget Amendments for the Department of Defense".

(2) The total amount, if any, appropriated for the National Foreign Intelligence Program for fiscal year 2002 pursuant to the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38; 115 Stat. 220–221).

(3) The total amount, if any, appropriated for the National Foreign Intelligence Program for fiscal year 2002 in any law making supplemental appropriations for fiscal year 2002 that is enacted during the second session of the 107th Congress.

**SEC. 1007. CLARIFICATION OF APPLICABILITY OF INTEREST PENALTIES FOR LATE PAYMENT OF INTERIM PAYMENTS DUE UNDER CONTRACTS FOR SERVICES.**

Section 1010(d) 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–251) is amended by inserting before the period at the end of the first sentence the following: ", and shall apply with respect to interim payments that are due on or after such date under contracts entered into before, on, or after that date".

**SEC. 1008. RELIABILITY OF DEPARTMENT OF DEFENSE FINANCIAL STATEMENTS.**

(a) ANNUAL REPORT ON RELIABILITY.—(1) Not later than September 30 of each year but subject to subsection (f), the Secretary of Defense shall submit to the recipients specified in paragraph (3) a report on the reliability of the Department of Defense financial statements, including the financial statements of each component of the Department that is required to prepare a financial statement under section 3515(c) of title 31, United States Code.

(2) The annual report shall contain the following:

(A) A conclusion regarding whether the policies and procedures of the Department of Defense, and the systems used within the Department of Defense, for the preparation of financial statements allow the achievement of reliability in those financial statements.

(B) For each of the financial statements prepared for the Department of Defense for the fiscal year in which the report is submitted, a conclusion regarding the expected reliability of the financial statement (evaluated on the basis of Office of Management and Budget guidance on financial statements), together with a discussion of the major deficiencies to be expected in the statement.

(C) A summary of the specific sections of the annual Financial Management Improvement Plan of the Department of Defense, current as of the date of the report, that—

(i) detail the priorities, milestones, and measures of success that apply to the preparation of the financial statements;

(ii) detail the planned improvements in the process for the preparation of financial statements that are to be implemented within 12 months after the date on which the plan is issued; and

(iii) provide an estimate of when each financial statement will convey reliable information.

(3) The annual report shall be submitted to the following:

(A) The Committee on Armed Services and the Committee on Governmental Affairs of the Senate.

(B) The Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

(C) The Director of the Office of Management and Budget.

(D) The Secretary of the Treasury.

(E) The Comptroller General of the United States.

(4) The Secretary of Defense shall make a copy of the annual report available to the Inspector General of the Department of Defense.

(b) MINIMIZATION OF USE OF RESOURCES FOR UNRELIABLE FINANCIAL STATEMENTS.—(1) With respect to each financial statement for a fiscal year that the Secretary of Defense assesses as being expected to be unreliable in the annual report under subsection (a), the Under Secretary of Defense (Comptroller) shall take appropriate actions to minimize, consistent with the benefits to be derived, the resources (including contractor support) that are used to develop, compile, and report the financial statement.

(2) With the annual budget justifications for the Department of Defense submitted to Congress each year, the Under Secretary of Defense (Comptroller) shall submit, with respect to the fiscal year in which submitted, the preceding fiscal year, and the following fiscal year, the following information:

(A) An estimate of the resources that the Department of Defense is saving or expects to save as a result of actions taken and to be taken under paragraph (1) with respect to the preparation of financial statements.

(B) A discussion of how the resources saved as estimated under subparagraph (A) have been redirected or are to be redirected from the preparation of financial statements to the improvement of systems underlying financial management within the Department of Defense and to the improvement

of financial management policies, procedures, and internal controls within the Department of Defense.

(c) INFORMATION TO AUDITORS.—Not later than October 31 of each year, the Under Secretary of Defense (Comptroller) and the Assistant Secretary of each military department with responsibility for financial management and comptroller functions shall each provide to the auditors of the financial statement of that official's department for the fiscal year ending during the preceding month that official's preliminary management representation, in writing, regarding the expected reliability of the financial statement. The representation shall be consistent with guidance issued by the Director of the Office of Management and Budget and shall include the basis for the reliability assessment stated in the representation.

(d) LIMITATION ON INSPECTOR GENERAL AUDITS.—(1) On each financial statement that an official asserts is unreliable under subsection (b) or (c), the Inspector General of the Department of Defense shall only perform the audit procedures required by generally accepted government auditing standards consistent with any representation made by management.

(2) With the annual budget justifications for the Department of Defense submitted to Congress each year, the Under Secretary of Defense (Comptroller) shall submit, with respect to the fiscal year in which submitted, the preceding fiscal year, and the following fiscal year, information which the Inspector General shall report to the Under Secretary, as follows:

(A) An estimate of the resources that the Inspector General is saving or expects to save as a result of actions taken and to be taken under paragraph (1) with respect to the auditing of financial statements.

(B) A discussion of how the resources saved as estimated under subparagraph (A) have been redirected or are to be redirected from the auditing of financial statements to the oversight and improvement of systems underlying financial management within the Department of Defense and to the oversight and improvement of financial management policies, procedures, and internal controls within the Department of Defense.

(e) EFFECTIVE DATE.—The requirements of this section shall apply with respect to financial statements for fiscal years after fiscal year 2001 and to the auditing of those financial statements.

(f) TERMINATION OF APPLICABILITY.—If the Secretary of Defense certifies to the Inspector General of the Department of Defense that the financial statement for the Department of Defense, or a financial statement for a component of the Department of Defense, for a fiscal year is reliable, this section shall not apply with respect to that financial statement or to any successive financial statement for the Department of Defense, or for that component, as the case may be, for any later fiscal year.

**SEC. 1009. FINANCIAL MANAGEMENT MODERNIZATION EXECUTIVE COMMITTEE AND FINANCIAL FEEDER SYSTEMS COMPLIANCE PROCESS.**

(a) EXECUTIVE COMMITTEE.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 185. Financial Management Modernization Executive Committee**

"(a) ESTABLISHMENT OF FINANCIAL MANAGEMENT MODERNIZATION EXECUTIVE COMMITTEE.—(1) The Secretary of Defense shall establish a Financial Management Modernization Executive Committee.

"(2) The Committee shall be composed of the following:

"(A) The Under Secretary of Defense (Comptroller), who shall be the chairman of the committee.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(C) The Under Secretary of Defense for Personnel and Readiness.

"(D) The Chief Information Officer of the Department of Defense.

"(E) Such additional personnel of the Department of Defense (including appropriate personnel of the military departments and Defense Agencies) as are designated by the Secretary.

"(3) The Committee shall be accountable to the Senior Executive Council (composed of the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force).

"(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the Committee shall have the following duties:

"(1) To establish a process that ensures that each critical accounting system, financial management system, and data feeder system of the Department of Defense is compliant with applicable Federal financial management and reporting requirements.

"(2) To develop a management plan for the implementation of the financial and data feeder systems compliance process established pursuant to paragraph (1).

"(3) To supervise and monitor the actions that are necessary to implement the management plan developed pursuant to paragraph (2), as approved by the Secretary of Defense.

"(4) To ensure that a Department of Defense financial management enterprise architecture is developed and maintained in accordance with—

"(A) the overall business process transformation strategy of the Department; and

"(B) the architecture framework of the Department for command, control, communications, computers, intelligence, surveillance, and reconnaissance functions.

"(5) To ensure that investments in existing or proposed financial management systems for the Department comply with the overall business practice transformation strategy of the Department and the financial management enterprise architecture developed under paragraph (4).

"(6) To provide an annual accounting of each financial and data feeder system investment technology project to ensure that each such project is being implemented at acceptable cost and within a reasonable schedule and is contributing to tangible, observable improvements in mission performance.

"(c) MANAGEMENT PLAN FOR IMPLEMENTATION OF FINANCIAL DATA FEEDER SYSTEMS COMPLIANCE PROCESS.—The management plan developed under subsection (b)(2) shall include among its principal elements at least the following elements:

"(1) A requirement for the establishment and maintenance of a complete inventory of all budgetary, accounting, finance, and data feeder systems that support the transformed business processes of the Department and produce financial statements.

"(2) A phased process (consisting of the successive phases of Awareness, Evaluation, Renovation, Validation, and Compliance) for improving systems referred to in paragraph (1) that provides for mapping financial data flow from the cognizant Department business function source (as part of the overall business process transformation strategy of the Department) to Department financial statements.

"(3) Periodic submittal to the Secretary of Defense, the Deputy Secretary of Defense, and the Senior Executive Council (or any combination thereof) of reports on the progress being made in achieving financial management transformation goals and milestones included in the annual financial management improvement plan in 2002.

"(4) Documentation of the completion of each phase specified in paragraph (2) of improvements made to each accounting, finance, and data feeder system of the Department.

"(5) Independent audit by the Inspector General of the Department, the audit agencies of the military departments, and private sector firms contracted to conduct validation audits (or any combination thereof) at the validation phase for each accounting, finance, and data feeder system.

"(d) DATA FEEDER SYSTEMS.—In this section, the term 'data feeder system' has the meaning given that term in section 2222(c)(2) of this title.".

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

"185. Financial Management Modernization Executive Committee.".

(b) ANNUAL FINANCIAL MANAGEMENT IMPROVEMENT PLAN.—(1) Subsection (a) of section 2222 of title 10, United States Code, is amended—

(A) by striking "BIENNIAL" in the subsection heading and inserting "ANNUAL";

(B) by striking "a biennial" in the first sentence and inserting "an annual"; and

(C) by striking "even-numbered" in the second sentence.

(2) Subsection (c) of such section is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

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

"(2) In each such plan, the Secretary shall include the following:

"(A) A description of the actions to be taken in the fiscal year beginning in the year in which the plan is submitted to implement the annual performance goals, and the performance milestones, included in the financial management improvement plan submitted in 2002 pursuant to paragraphs (1) and (2), respectively, of section 1009(c) of the National Defense Authorization Act for Fiscal Year 2002.

"(B) An estimate of the amount expended in the fiscal year ending in the year in which the plan is submitted to implement the financial management improvement plan in such preceding calendar year, set forth by system.

"(C) If an element of the financial management improvement plan submitted in the fiscal year ending in the year in which the plan is submitted was not implemented, a justification for the lack of implementation of such element.".

(3)(A) The heading of such section is amended to read as follows:

**"§ 2222. Annual financial management improvement plan"**.

(B) The item relating to section 2222 in the table of sections at the beginning of chapter 131 of such title is amended to read as follows:

"2222. Annual financial management improvement plan.".

(c) ADDITIONAL ELEMENTS FOR FINANCIAL MANAGEMENT IMPROVEMENT PLAN IN 2002.—In the annual financial management improvement plan submitted under section 2222 of title 10, United States Code, in 2002, the Secretary of Defense shall include the following:

(1) Measurable annual performance goals for improvement of the financial management of the Department of Defense.

(2) Performance milestones for initiatives under that plan for transforming the financial management operations of the Department of Defense and for implementing a financial management architecture for the Department.

(3) An assessment of the anticipated annual cost of any plans for transforming the financial management operations of the Department of Defense and for implementing a financial management architecture for the Department.

(4) A discussion of the following:

(A) The roles and responsibilities of appropriate Department officials to ensure the supervision and monitoring of the compliance of each accounting, finance, and data feeder system of the Department with—

(i) the business practice transformation strategy of the Department;

(ii) the financial management architecture of the Department; and

(iii) applicable Federal financial management systems and reporting requirements.

(B) A summary of the actions taken by the Financial Management Modernization Executive Committee to ensure that such systems comply with—

(i) the business practice transformation strategy of the Department;

(ii) the financial management architecture of the Department; and

(iii) applicable Federal financial management systems and reporting requirements.

(d) EFFECTIVE DATE.—Paragraph (2) of section 2222(c) of title 10, United States Code, as added by subsection (b)(2), shall not apply with respect to the annual financial management improvement plan submitted under section 2222 of title 10, United States Code, in 2002.

**SEC. 1010. AUTHORIZATION OF FUNDS FOR BALLISTIC MISSILE DEFENSE PROGRAMS OR COMBATING TERRORISM PROGRAMS OF THE DEPARTMENT OF DEFENSE.**

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 2002 for the military functions of the Department of Defense, in addition to amounts authorized to be appropriated in titles I, II, and III, the amount of $1,300,000,000, to be available, in accordance with subsection (b), for the following purposes:

(1) Research, development, test, and evaluation for ballistic missile defense programs of the Ballistic Missile Defense Organization.

(2) Activities of the Department of Defense for combating terrorism.

(b) ALLOCATION BY PRESIDENT.—(1) The amount authorized to be appropriated by subsection (a) shall be allocated between the purposes stated in paragraphs (1) and (2) of that subsection in such manner as may be determined by the President based upon the national security interests of the United States. The amount authorized in subsection (a) shall not be available for any other purpose.

(2) Upon an allocation of such amount by the President, the amount so allocated shall be transferred to the appropriate regular authorization account under this division in the same manner as provided in section 1001. Transfers under this paragraph shall not be counted for the purposes of section 1001(a)(2).

(3) Not later than 15 days after an allocation is made under this subsection, the Secretary of Defense shall submit to the congressional defense committees a report describing the allocation and the Secretary's plan for the use by the Department of Defense of the funds made available pursuant to such allocation.

# Subtitle B—Naval Vessels and Shipyards

**SEC. 1011. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.**

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) POLAND.—To the Government of Poland, the OLIVER HAZARD PERRY class guided missile frigate WADSWORTH (FFG 9).

(2) TURKEY.—To the Government of Turkey, the KNOX class frigates CAPODANNO (FF 1093), THOMAS C. HART (FF 1092), DONALD B. BEARY (FF 1085), McCANDLESS (FF 1084), REASONER (FF 1063), and BOWEN (FF 1079).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign governments and foreign governmental entities on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) TAIWAN.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the KIDD class guided missile

destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(2) TURKEY.—To the Government of Turkey, the OLIVER HAZARD PERRY class guided missile frigates ESTOCIN (FFG 15) and SAMUEL ELIOT MORISON (FFG 13).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) COSTS OF TRANSFERS ON GRANT BASIS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))) in the case of a transfer authorized to be made on a grant basis under subsection (a).

(e) WAIVER AUTHORITY.—For a vessel transferred on a grant basis pursuant to authority provided by subsection (a)(2), the President may waive reimbursement of charges for the lease of that vessel under section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) for a period of one year before the date of the transfer of that vessel.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

**SEC. 1012. SALE OF GLOMAR EXPLORER TO THE LESSEE.**

(a) AUTHORITY.—The Secretary of the Navy may convey by sale all right, title, and interest of the United States in and to the vessel GLOMAR EXPLORER (AG 193) to the person who, on the date of the enactment of this Act, is the lessee of the vessel.

(b) CONSIDERATION.—The price for which the vessel is sold under subsection (a) shall be a fair and reasonable amount determined by the Secretary of the Navy.

(c) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(d) PROCEEDS OF SALE.—Amounts received by the Secretary from the sale under this section may, to the extent provided in an appropriations Act, be credited to the appropriation available for providing salvage facilities under section 7361 of title 10, United States Code, and are authorized to remain available until expended for that purpose.

**SEC. 1013. LEASING OF NAVY SHIPS FOR UNIVERSITY NATIONAL OCEANOGRAPHIC LABORATORY SYSTEM.**

Subsection (g) of section 2667 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Paragraph (1) does not apply to a renewal or extension of a lease by the Secretary of the Navy with a selected institution for operation of a ship within the University National Oceanographic Laboratory System if, under the lease, each of the following applies:

"(A) Use of the ship is restricted to federally supported research programs and to non-Federal uses under specific conditions with approval by the Secretary of the Navy.

"(B) Because of the anticipated value to the Navy of the oceanographic research and training that will result from the ship's operation, no monetary lease payments are required from the lessee under the initial lease or under any renewal or extension.

"(C) The lessee is required to maintain the ship in a good state of repair, readiness, and efficient operating condition, conform to all applicable regulatory requirements, and assume full responsibility for the safety of the ship, its crew, and scientific personnel aboard.".

**SEC. 1014. INCREASE IN LIMITATIONS ON ADMINISTRATIVE AUTHORITY OF THE NAVY TO SETTLE ADMIRALTY CLAIMS.**

(a) ADMIRALTY CLAIMS AGAINST THE UNITED STATES.—Section 7622 of title 10, United States Code, is amended—

(1) in subsections (a) and (b), by striking "$1,000,000" and inserting "$15,000,000"; and

(2) in subsection (c), by striking "$100,000" and inserting "$1,000,000".

(b) ADMIRALTY CLAIMS BY THE UNITED STATES.—Section 7623 of such title is amended—

(1) in subsection (a)(2), by striking "$1,000,000" and inserting "$15,000,000"; and

(2) in subsection (c), by striking "$100,000" and inserting "$1,000,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any claim accruing on or after February 1, 2001.

# Subtitle C—Counter-Drug Activities

**SEC. 1021. EXTENSION AND RESTATEMENT OF AUTHORITY TO PROVIDE DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER GOVERNMENTAL AGENCIES.**

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) is amended to read as follows:

**"SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.**

"(a) SUPPORT TO OTHER AGENCIES.—During fiscal years 2002 through 2006, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law

enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

"(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

"(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

"(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

"(b) TYPES OF SUPPORT.—The purposes for which the Secretary of Defense may provide support under subsection (a) are the following:

"(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of—

"(A) preserving the potential future utility of such equipment for the Department of Defense; and

"(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

"(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of—

"(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

"(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

"(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

"(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities of the Department of Defense or any Federal, State, or local law enforcement agency within or outside the United States or counter-drug activities of a foreign law enforcement agency outside the United States.

"(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

"(6) The detection, monitoring, and communication of the movement of—

"(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

"(B) surface traffic outside the geographic boundary of the United States and within the United States not

to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

"(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

"(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

"(9) The provision of linguist and intelligence analysis services.

"(10) Aerial and ground reconnaissance.

"(c) LIMITATION ON COUNTER-DRUG REQUIREMENTS.—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

"(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

"(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

"(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

"(g) RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

"(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e), section 376 of title 10, United States Code.

"(h) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—(1) When a decision is made to carry out a military construction project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees written notice of the decision, including the justification for the project and the estimated cost of the project. The project may be commenced only after the end of the 21-day period beginning on the date on which the written notice is received by Congress.

"(2) Paragraph (1) applies to an unspecified minor military construction project that—

"(A) is intended for the modification or repair of a Department of Defense facility for the purpose set forth in subsection (b)(4); and

"(B) has an estimated cost of more than $500,000.".

**SEC. 1022. EXTENSION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.**

Section 1022 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–255) is amended—

(1) by inserting "and April 15, 2002," after "January 1, 2001,"; and

(2) by striking "fiscal year 2000" and inserting "the preceding fiscal year".

**SEC. 1023. AUTHORITY TO TRANSFER TRACKER AIRCRAFT CURRENTLY USED BY ARMED FORCES FOR COUNTER-DRUG PURPOSES.**

(a) TRANSFER AUTHORITY.—The Secretary of Defense may transfer to the administrative jurisdiction and operational control of another Federal agency all Tracker aircraft in the inventory of the Department of Defense.

(b) EFFECT OF FAILURE TO TRANSFER.—If the transfer authority provided by subsection (a) is not exercised by the Secretary of Defense by September 30, 2002, any Tracker aircraft remaining in the inventory of the Department of Defense may not be used by the Armed Forces for counter-drug purposes after that date.

**SEC. 1024. LIMITATION ON USE OF FUNDS FOR OPERATION OF TETHERED AEROSTAT RADAR SYSTEM PENDING SUBMISSION OF REQUIRED REPORT.**

Not more than 50 percent of the funds appropriated or otherwise made available for fiscal year 2002 for operation of the Tethered Aerostat Radar System, which is used by the Armed Forces in maritime, air, and land counter-drug detection and monitoring, may be obligated or expended until such time as the Secretary of Defense submits to Congress the report on the status of the Tethered Aerostat Radar System required by section 1025 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–256).

## Subtitle D—Strategic Forces

**SEC. 1031. REPEAL OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

Section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948) is repealed.

**SEC. 1032. AIR FORCE BOMBER FORCE STRUCTURE.**

(a) LIMITATION.—None of the funds available to the Department of Defense for fiscal year 2002 may be obligated or expended for retiring or dismantling any of the 93 B–1B Lancer bombers in service as of June 1, 2001, or for transferring or reassigning any of those aircraft from the unit or facility to which assigned as of that date, until 15 days after the Secretary of the Air Force submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the Air Force bomber force structure.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall set forth the following:

(1) The Air Force plan for the modernization of the B–1B aircraft fleet, including a transition plan for implementation of that modernization plan and a description of the basing options for the aircraft in that fleet.

(2) The amount and type of bomber force structure in the Air Force appropriate to meet the requirements of the national security strategy of the United States.

(3) Specifications of new missions to be assigned to the National Guard units that currently fly B–1 aircraft and the transition of those units and their facilities from the current B–1 mission to their future missions.

(4) A description of the potential effect of the proposed consolidation and reduction of the B–1 fleet on other National Guard units in the affected States.

(5) A justification of the cost and projected savings of consolidating and reducing the B–1 fleet.

(c) AMOUNT AND TYPE OF BOMBER FORCE STRUCTURE DEFINED.—In this section, the term "amount and type of bomber force structure" means the number of B–2 aircraft, B–52 aircraft, and B–1 aircraft that are required to carry out the current national security strategy.

**SEC. 1033. ADDITIONAL ELEMENT FOR REVISED NUCLEAR POSTURE REVIEW.**

Section 1041(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–262) is amended by adding at the end the following new paragraph:

"(7) The possibility of deactivating or dealerting nuclear warheads or delivery systems immediately, or immediately after a decision to retire any specific warhead, class of warheads, or delivery system.".

**SEC. 1034. REPORT ON OPTIONS FOR MODERNIZATION AND ENHANCEMENT OF MISSILE WING HELICOPTER SUPPORT.**

(a) REPORT REQUIRED.—The Secretary of Defense shall prepare a report regarding the options for providing the helicopter support missions for the Air Force intercontinental ballistic missile wings at Minot Air Force Base, North Dakota, Malmstrom Air Force Base, Montana, and F.E. Warren Air Force Base, Wyoming, for as long as these missions are required. The report shall include the Secretary's recommendations on a preferred option.

(b) OPTIONS.—Options to be reviewed under subsection (a) include the following:

(1) The current plan of the Air Force for replacement or modernization of UH–1N helicopters currently flown by the Air Force at the missile wings.

(2) Replacement of the UH–1N helicopters currently flown by the Air Force with UH–60 Black Hawk helicopters, the UH–1Y helicopter, or another platform.

(3) Replacement of the UH–1N helicopters with UH–60 helicopters and transition of the mission to the Army National Guard, as detailed in the Air Force Space Command/Army National Guard plan entitled "ARNG Helicopter Support to Air Force Space Command" and dated November 2000.

(4) Replacement of the UH–1N helicopters with UH–60 helicopters or another platform, and establishment of composite units combining active duty Air Force and Army National Guard personnel.

(5) Such other options as the Secretary of Defense considers appropriate.

(c) FACTORS.—Factors to be considered in preparing the report under subsection (a) include the following:

(1) Any implications of transferring the helicopter support missions on the command and control of, and responsibility for, missile field force protection.

(2) Current and future operational requirements, and the capabilities of the UH–1N or UH–60 helicopter or other aircraft to meet such requirements.

(3) Cost, with particular attention to opportunities to realize efficiencies over the long run.

(4) Implications for personnel training and retention.

(5) Evaluation of the assumptions used in the plan specified in subsection (b)(3).

(d) CONSIDERATION.—In preparing the report under subsection (a), the Secretary of Defense shall consider carefully the views of the Secretary of the Army, the Secretary of the Air Force, the commander of the United States Strategic Command, and the Chief of the National Guard Bureau.

(e) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to the congressional defense committees not later than the date on which the President submits to Congress the budget under section 1105 of title 31, United States Code, for fiscal year 2003.

# Subtitle E—Other Department of Defense Provisions

### SEC. 1041. SECRETARY OF DEFENSE RECOMMENDATION ON NEED FOR DEPARTMENT OF DEFENSE REVIEW OF PROPOSED FEDERAL AGENCY ACTIONS TO CONSIDER POSSIBLE IMPACT ON NATIONAL DEFENSE.

(a) RECOMMENDATION ON NEED FOR DEFENSE IMPACT REVIEW PROCESS.—The Secretary of Defense shall submit to the President the Secretary's recommendation as to whether there should be established within the executive branch a defense impact review process. The Secretary shall submit a copy of such recommendation to Congress.

(b) DEFENSE IMPACT REVIEW PROCESS.—(1) For purposes of this section, the term "defense impact review process" means a formal process within the executive branch—

(A) to provide for review by the Department of Defense of certain proposed actions of other Federal departments and agencies to identify any reasonably foreseeable significant adverse impact of such a proposed action on national defense; and

(B) when such a review indicates that a proposed agency action may have such an adverse impact—

(i) to afford the Secretary of Defense a timely opportunity to make recommendations for means to eliminate or mitigate any such adverse impact; and

(ii) to afford an opportunity for those recommendations to be given reasonable and timely consideration by the agency to which provided.

(2) For purposes of such a review process, the proposed agency actions subject to review would be those for which a significant adverse impact on national defense is reasonably foreseeable and that meet such additional criteria as may be specified by the Secretary of Defense.

(c) TIME FOR SUBMISSION OF RECOMMENDATION.—The Secretary shall submit the Secretary's recommendation under subsection (a) not later than 180 days after the date of the enactment of this Act.

**SEC. 1042. DEPARTMENT OF DEFENSE REPORTS TO CONGRESS TO BE ACCOMPANIED BY ELECTRONIC VERSION UPON REQUEST.**

(a) IN GENERAL.—Chapter 23 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

**"§ 480. Reports to Congress: submission in electronic form**

"(a) REQUIREMENT.—Whenever the Secretary of Defense or any other official of the Department of Defense submits to Congress (or any committee of either House of Congress) a report that the Secretary (or other official) is required by law to submit, the Secretary (or other official) shall, upon request by any committee of Congress to which the report is submitted or referred, provide to Congress (or each such committee) a copy of the report in an electronic medium.

"(b) EXCEPTION.—Subsection (a) does not apply to a report submitted in classified form.

"(c) DEFINITION.—In this section, the term 'report' includes any certification, notification, or other communication in writing.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 481 the following new item:

"480. Reports to Congress: submission in electronic form.".

**SEC. 1043. DEPARTMENT OF DEFENSE GIFT AUTHORITIES.**

(a) AUTHORITY TO MAKE LOANS AND GIFTS.—(1) Subsection (a) of section 7545 of title 10, United States Code, is amended by striking "(a) Subject to" and all that follows through "to—" and inserting the following:

"(a) AUTHORITY TO MAKE LOANS AND GIFTS.—The Secretary of the Navy may lend or give, without expense to the United States, items described in subsection (b) that are not needed by the Department of the Navy to any of the following:".

(2) Such subsection is further amended—

(A) by capitalizing the first letter after the paragraph designation in each of paragraphs (1) through (12);

(B) by striking the semicolon at the end of paragraphs (1) through (10) and inserting a period;

(C) by striking "; or" at the end of paragraph (11) and inserting a period;

(D) in paragraph (5), by striking "World War I or World War II" and inserting "a foreign war";

(E) in paragraph (6), by striking "soldiers' monument" and inserting "servicemen's monument"; and

(F) in paragraph (8), by inserting "or memorial" after "museum".

(b) ADDITIONAL ITEMS AUTHORIZED TO BE DONATED BY SECRETARY OF THE NAVY.—Such section is further amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

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

"(b) ITEMS ELIGIBLE FOR DISPOSAL.—This section applies to the following types of property held by the Department of the Navy:

"(1) Captured, condemned, or obsolete ordnance material.

"(2) Captured, condemned, or obsolete combat or shipboard material.

"(c) REGULATIONS.—A loan or gift made under this section shall be subject to regulations prescribed by the Secretary and to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486).."; and

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

"(f) AUTHORITY TO TRANSFER A PORTION OF A VESSEL.—The Secretary may lend, give, or otherwise transfer any portion of the hull or superstructure of a vessel stricken from the Naval Vessel Register and designated for scrapping to a qualified organization specified in subsection (a). The terms and conditions of an agreement for the transfer of a portion of a vessel under this section shall include a requirement that the transferee will maintain the material conveyed in a condition that will not diminish the historical value of the material or bring discredit upon the Navy.".

(c) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (d) (as redesignated by subsection (b)(1)), by inserting "MAINTENANCE OF THE RECORDS OF THE GOVERNMENT.—" after the subsection designation; and

(2) in subsection (e) (as redesignated by subsection (b)(1)), by inserting "ALTERNATIVE AUTHORITIES TO MAKE GIFTS OR LOANS.—" after the subsection designation.

(d) CONFORMING AMENDMENTS.—Section 2572(a) of such title is amended—

(1) in paragraph (1), by inserting ", county, or other political subdivision of a State" before the period at the end;

(2) in paragraph (2), by striking "soldiers' monument" and inserting "servicemen's monument"; and

(3) in paragraph (4), by inserting "or memorial" after "An incorporated museum".

**SEC. 1044. ACCELERATION OF RESEARCH, DEVELOPMENT, AND PRODUCTION OF MEDICAL COUNTERMEASURES FOR DEFENSE AGAINST BIOLOGICAL WARFARE AGENTS.**

(a) AGGRESSIVE PROGRAM REQUIRED.—(1) The Secretary of Defense shall carry out a program to aggressively accelerate the research, development, testing, and licensure of new medical countermeasures for defense against the biological warfare agents that are the highest threat.

(2) The program shall include the following activities:

(A) As the program's first priority, investment in multiple new technologies for medical countermeasures for defense against the biological warfare agents that are the highest threat, including for the prevention and treatment of anthrax.

(B) Leveraging of ideas and technologies from the biological technology industry.

(b) STUDY REQUIRED.—(1) The Secretary of Defense shall enter into a contract with the Institute of Medicine and the National Research Council under which the Institute and Council, in consultation with the Secretary, shall carry out a study of the review and approval process for new medical countermeasures for biological warfare agents. The purpose of the study shall be to identify—

(A) new approaches to accelerating such process; and

(B) definitive and reasonable methods for assuring the agencies responsible for regulating such countermeasures that such countermeasures will be effective in preventing disease in humans or in providing safe and effective therapy against such agents.

(2) Not later than June 1, 2002, the Institute and Council shall jointly submit to Congress a report on the results of the study.

(c) FACILITY FOR PRODUCTION OF VACCINES.—(1) Subject to paragraph (2) and to the availability of funds for such purposes appropriated pursuant to an authorization of appropriations, the Secretary of Defense may—

(A) design and construct a facility on a Department of Defense installation for the production of vaccines to meet the requirements of the Department of Defense to prevent or mitigate the physiological effects of exposure to biological warfare agents;

(B) operate that facility;

(C) qualify and validate that facility for the production of vaccines in accordance with the requirements of the Food and Drug Administration; and

(D) contract with a private-sector source for the production of vaccines in that facility.

(2) The authority under paragraph (1)(A) to construct a facility may be exercised only to the extent that a project for such construction is authorized by law in accordance with section 2802 of title 10, United States Code.

(3) The Secretary shall use competitive procedures under chapter 137 of title 10, United States Code, to enter into contracts to carry out subparagraphs (A), (B), and (D) of paragraph (1).

(d) PLAN REQUIRED.—(1) The Secretary shall develop a long-range plan to provide for the production and acquisition of vaccines to meet the requirements of the Department of Defense to prevent or mitigate the physiological effects of exposure to biological warfare agents.

(2) The plan shall include the following:

(A) An evaluation of the need for one or more vaccine production facilities that are specifically dedicated to meeting the requirements of the Department of Defense and other national interests.

(B) An evaluation of the options for the means of production of such vaccines, including—

(i) use of public facilities, private facilities, or a combination of public and private facilities; and

(ii) management and operation of the facilities by the Federal Government, one or more private persons, or a combination of the Federal Government and one or more private persons.

(C) A specification of the means that the Secretary determines is most appropriate for the production of such vaccines.

(3) The Secretary shall ensure that the plan is consistent with the requirement for safe and effective vaccines approved by the Food and Drug Administration.

(4) In preparing the plan, the Secretary shall—

(A) consider and, as the Secretary determines appropriate, include the information compiled and the analyses developed in preparing the reports required by sections 217 and 218 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–36, 1654A–37); and

(B) consult with the heads of other appropriate departments and agencies of the Federal Government.

(e) REPORT.—Not later than February 1, 2002, the Secretary shall submit to the congressional defense committees a report on the plan required by subsection (d). The report shall include, at a minimum, the contents of the plan and the following matters:

(1) A description of the policies and requirements of the Department of Defense regarding acquisition and use of such vaccines.

(2) The estimated schedule for the acquisition of such vaccines in accordance with the plan.

(3) A discussion of the options considered under subsection (d)(2)(B) for the means of production of such vaccines.

(4) The Secretary's recommendations for the most appropriate course of action to meet the requirements specified in subsection (d)(1), together with the justification for such recommendations and the long-term cost of implementing such recommendations.

(f) FUNDING.—Of the amount authorized to be appropriated under section 201(4) for research, development, test, and evaluation, Defense-wide, $5,000,000 may be available in Program Element 62384BP, and $5,000,000 may be available in Program Element 63384BP, for the program required by subsection (a).

**SEC. 1045. CHEMICAL AND BIOLOGICAL PROTECTIVE EQUIPMENT FOR MILITARY PERSONNEL AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the requirements of the Department of Defense, including the reserve components, regarding chemical and biological protective equipment. The report shall set forth the following:

(1) A description of any current shortfalls with respect to requirements regarding chemical and biological protective equipment for military personnel, whether for individuals or units.

(2) An assessment of what should be the appropriate level of protection for civilian employees of the Department of Defense against chemical and biological attack.

(3) A plan for providing required chemical and biological protective equipment for military personnel and civilian employees of the Department of Defense.

(4) An assessment of the costs associated with carrying out the plan described in paragraph (3).

**SEC. 1046. SALE OF GOODS AND SERVICES BY NAVAL MAGAZINE, INDIAN ISLAND, ALASKA.**

(a) SALE AUTHORIZED.—Subject to subsections (c) and (d) of section 2563 of title 10, United States Code, the Secretary of the Navy may sell to a person outside the Department of Defense any article or service provided by the Naval Magazine, Indian Island, Alaska, that is not available from a United States commercial source.

(b) CREDITING OF PROCEEDS.—The proceeds from the sale of any article or service under this section shall be credited to the appropriation supporting the maintenance and operation of the Naval Magazine, Indian Island, for the fiscal year in which the proceeds are received.

**SEC. 1047. REPORT ON PROCEDURES AND GUIDELINES FOR EMBARKATION OF CIVILIAN GUESTS ON NAVAL VESSELS FOR PUBLIC AFFAIRS PURPOSES.**

Not later than February 1, 2002, the Secretary of the Navy 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 in detail the procedures and guidelines of the Navy for the embarkation of civilian guests on naval vessels for public affairs purposes. The report shall include the following:

(1) Procedures for nominating and approving civilian guests for embarkation on naval vessels.

(2) Procedures for ensuring that civilian guest embarkations are conducted only as part of regularly scheduled operations.

(3) Guidelines regarding the operation of equipment by civilian guests on naval vessels.

(4) Any other procedures or guidelines the Secretary considers necessary or appropriate to ensure that operational readiness and safety are not hindered by activities related to the embarkation of civilian guests on naval vessels.

**SEC. 1048. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are each amended by striking the period after "1111" in the item relating to chapter 56.

(2) Section 119(g)(2) is amended by striking "National Security Subcommittee" and inserting "Subcommittee on Defense".

(3) Section 130c(b)(3)(C) is amended by striking "subsection (f)" and inserting "subsection (g)".

(4) Section 176(a)(3) is amended by striking "Chief Medical Director" and inserting "Under Secretary for Health".

(5)(A) Section 503(c) is amended in paragraph (6)(A)(i) by striking "14101(18)" and "8801(18)" and inserting "14101" and "8801", respectively.

(B) The amendment made by subparagraph (A) shall take effect on July 1, 2002, immediately after the amendment to such section effective that date by section 563(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–131).

(6) Section 663(e) is amended—

(A) by striking "Armed Forces Staff College" in paragraph (1) and inserting "Joint Forces Staff College"; and

(B) by striking "ARMED FORCES STAFF COLLEGE" and inserting "JOINT FORCES STAFF COLLEGE".

(7) Section 667(17) is amended by striking "Armed Forces Staff College" both places it appears and inserting "Joint Forces Staff College".

(8) Section 874(a) is amended by inserting after "a sentence of confinement for life without eligibility for parole" the following: "that is adjudged for an offense committed after October 29, 2000".

(9) Section 1056(c)(2) is amended by striking ", not later than September 30, 1991,".

(10) The table of sections at the beginning of chapter 55 is amended by transferring the item relating to section 1074i, as inserted by section 758(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–200), so as to appear after the item relating to section 1074h.

(11) Section 1097a(e) is amended by striking "section 1072" and inserting "section 1072(2)".

(12) Sections 1111(a) and 1114(a)(1) are each amended by striking "hereafter" and inserting "hereinafter".

(13) Section 1116 is amended—

(A) in subsection (a)(2)(B), by inserting an open parenthesis before "other than for training"; and

(B) in subsection (b)(2)(D), by striking "section 111(c)(4)" and inserting "section 1115(c)(4)".

(14) The heading for subchapter II of chapter 75 is transferred within that chapter so as to appear before the table of sections at the beginning of that subchapter (as if the amendment made by section 721(c)(1) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 694) had inserted that heading following section 1471 instead of before section 1475).

(15) Section 1611(d) is amended by striking "with".

(16) Section 2166(e)(9) is amended by striking "App. 2" and inserting "App.".

(17) Section 2323(a)(1)(C) is amended—

(A) by striking "section 1046(3)" and inserting "section 365(3)";

(B) by striking "20 U.S.C. 1135d–5(3)" and inserting "20 U.S.C. 1067k"; and

(C) by striking ", which, for the purposes of this section" and all that follows through the period at the end and inserting a period.

(18) Section 2375(b) is amended by inserting "(41 U.S.C. 430)" after "section 34 of the Office of Federal Procurement Policy Act".

(19) Section 2376(1) is amended by inserting "(41 U.S.C. 403)" after "section 4 of the Office of Federal Procurement Policy Act".

(20) Section 2410f(a) is amended by inserting after "inscription" the following: ", or another inscription with the same meaning,".

(21) Section 2461a(a)(2) is amended by striking "effeciency" and inserting "efficiency".

(22) Section 2467 is amended—

(A) in subsection (a)(2)—

(i) by striking ", United States Code" in subparagraph (A); and

(ii) by striking "such" in subparagraphs (B) and (C); and

(B) in subsection (b)(2)(A), by striking "United States Code,".

(23) Section 2535 is amended—

(A) in subsection (a)—

(i) by striking "intent of Congress" and inserting "intent of Congress—";

(ii) by realigning clauses (1), (2), (3), and (4) so that each such clause appears as a separate paragraph indented two ems from the left margin; and

(iii) in paragraph (1), as so realigned, by striking "Armed Forces" and inserting "armed forces";

(B) in subsection (b)(1)—

(i) by striking "in this section, the Secretary is authorized and directed to—" and inserting "in subsection (a), the Secretary of Defense shall—"; and

(ii) by striking "defense industrial reserve" in subparagraph (A) and inserting "Defense Industrial Reserve"; and

(C) in subsection (c)—

(i) by striking paragraph (1);

(ii) by redesignating paragraph (2) as paragraph (1) and in that paragraph—

(I) by striking "means" and inserting "means—";

(II) by realigning clauses (A), (B), and (C) so that each such clause appears as a separate subparagraph indented four ems from the left margin; and

(III) by inserting "and" at the end of subparagraph (B), as so realigned; and

(iii) by redesignating paragraph (3) as paragraph (2).

(24) Section 2541c is amended by striking "subtitle" both places it appears in the matter preceding paragraph (1) and inserting "subchapter".

(25) The second section 2582, added by section 1(a) of Public Law 106–446 (114 Stat. 1932), is redesignated as section 2583, and the item relating to that section in the table of sections at the beginning of chapter 153 is revised to conform to such redesignation.

(26)(A) Section 2693(a) is amended—

(i) in the matter preceding paragraph (1), by inserting "of Defense" after "Secretary"; and

(ii) in paragraph (3)—

(I) by inserting "to the Secretary of Defense" after "certifies";

(II) by inserting "(42 U.S.C. 3762a)" after "of 1968"; and

(III) by striking "to the public agencies referred to in section 515(a)(1) or 515(a)(3) of title I of such Act" and inserting "to a public agency referred to in paragraph (1) or (3) of subsection (a) of such section".

(B)(i) The heading of such section is amended to read as follows:

**"§ 2693. Conveyance of certain property: Department of Justice correctional options program"**.

(ii) The item relating to such section in the table of sections at the beginning of chapter 159 is amended to read as follows:

"2693. Conveyance of certain property: Department of Justice correctional options program.".

(27) Section 3014(f)(3) is amended by striking "the number equal to" and all that follows and inserting "67.".

(28) Section 5014(f)(3) is amended by striking "the number equal to" and all that follows and inserting "74.".

(29) Section 8014(f)(3) is amended by striking "the number equal to" and all that follows and inserting "60.".

(30) Section 9783(e)(1) is amended by striking "40101(a)(2)" and inserting "40102(a)(2)".

(31) Section 12741(a)(2) is amended by striking "received" and inserting "receive".

(b) AMENDMENTS RELATING TO CHANGE IN TITLE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Title 10, United States Code, is further amended as follows:

(1) Section 133a(b) is amended by striking "shall assist the Under Secretary of Defense for Acquisition and Technology" and inserting "shall assist the Under Secretary of Defense for Acquisition, Technology, and Logistics".

(2) The following provisions are each amended by striking "Under Secretary of Defense for Acquisition and Technology" and inserting "Under Secretary of Defense for Acquisition, Technology, and Logistics": sections 139(c), 139(g) (as redesignated by section 263), 171(a)(3), 179(a)(1), 1702, 1703, 1707(a), 1722(a), 1722(b)(2)(B), 1735(c)(1), 1737(c)(1), 1737(c)(2)(B), 1741(b), 1746(a), 1761(b)(4), 1763, 2302c(a)(2), 2304(f)(1)(B)(iii), 2304(f)(6)(B), 2311(c)(1), 2311(c)(2)(B), 2350a(e)(1)(A), 2350a(e)(2)(B), 2350a(f)(1), 2399(b)(3), 2435(b), 2435(d)(2), 2521(a), and 2534(i)(3).

(3)(A) The heading for section 1702 is amended to read as follows:

**"§ 1702. Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities"**.

(B) The item relating to section 1702 in the table of sections at the beginning of subchapter I of chapter 87 is amended to read as follows:

"1702. Under Secretary of Defense for Acquisition, Technology, and Logistics: authorities and responsibilities.".

(4) Section 2503(b) is amended by striking "Under Secretary of Defense for Acquisition" and inserting "Under Secretary of Defense for Acquisition, Technology, and Logistics".

(c) AMENDMENTS TO SUBSTITUTE CALENDAR DATES FOR DATE-OF-ENACTMENT REFERENCES.—Title 10, United States Code, is further amended as follows:

(1) Section 130c(d)(1) is amended by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001" and inserting "October 30, 2000,".

(2) Section 184(a) is amended by striking "the date of the enactment of this section," and inserting "October 30, 2000,".

(3) Section 986(a) is amended by striking "the date of the enactment of this section," and inserting "October 30, 2000,".

(4) Section 1074g(a)(8) is amended by striking "the date of the enactment of this section" and inserting "October 5, 1999,".

(5) Section 1079(h)(2) is amended by striking "the date of the enactment of this paragraph" and inserting "February 10, 1996,".

(6) Section 1206(5) is amended by striking "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2000," and inserting "October 5, 1999,".

(7) Section 1405(c)(1) is amended by striking "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995," and inserting "October 5, 1994,".

(8) Section 1407(f)(2) is amended by striking "the date of the enactment of this subsection—" and inserting "October 30, 2000—".

(9) Section 1408(d)(6) is amended by striking "the date of the enactment of this paragraph" and inserting "August 22, 1996,".

(10) Section 1511(b) is amended by striking "the date of the enactment of this chapter." and inserting "February 10, 1996.".

(11) Section 2461a(b)(1) is amended by striking "the date of the enactment of this section," and inserting "October 30, 2000,".

(12) Section 4021(c)(1) is amended by striking "the date of the enactment of this section." and inserting "November 29, 1989.".

(13) Section 6328(a) is amended by striking "the date of the enactment of this section" and inserting "February 10, 1996,".

(14) Section 7439 is amended—

(A) in subsection (a)(2), by striking "one year after the date of the enactment of this section," and inserting "November 18, 1998,";

(B) in subsection (b)(1), by striking "the date of the enactment of this section," and inserting "November 18, 1997,";

(C) in subsection (b)(2), by striking "the end of the one-year period beginning on the date of the enactment of this section." and inserting "November 18, 1998."; and

(D) in subsection (f)(2), by striking "the date of the enactment of this section" and inserting "November 18, 1997,".

(15) Section 12533 is amended—

(A) in each of subsections (b) and (c)(1), by striking "the date of the enactment of this section." and inserting "November 18, 1997."; and

(B) in each of subsections (c)(2) and (d), by striking "the date of the enactment of this section" and inserting "November 18, 1997,".

(16) Section 12733(3) is amended—

(A) in subparagraph (B), by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001;" and inserting "October 30, 2000;"; and

(B) in subparagraph (C), by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001" and inserting "October 30, 2000,".

(d) AMENDMENTS RELATING TO CHANGE IN TITLE OF MCKINNEY-VENTO HOMELESS ASSISTANCE ACT.—The following provisions are each amended by striking "Stewart B. McKinney Homeless Assistance Act" and inserting "McKinney-Vento Homeless Assistance Act":

(1) Sections 2814(j)(2), 2854a(d)(2), and 2878(d)(4) of title 10, United States Code.

(2) Sections 2905(b)(6)(A) and 2910(11) 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).

(3) Section 204(b)(6)(A) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(4) Section 2915(c)(10) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2687 note).

(5) Section 2(e)(4)(A) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421; 10 U.S.C. 2687 note).

(6) Section 1053(a) of the National Defense Authorization Act for Fiscal Year 1997 (110 Stat. 2650).

(e) AMENDMENTS TO REPEAL OBSOLETE PROVISIONS.—Title 10, United States Code, is further amended as follows:

(1) Section 1144 is amended—

(A) in subsection (a)(3), by striking the second sentence; and

(B) by striking subsection (e).

(2) Section 1581(b) is amended—

(A) by striking "(1)" and all that follows through "The Secretary of Defense shall deposit" and inserting "The Secretary of Defense shall deposit"; and

(B) by striking "on or after December 5, 1991,".

(3) Subsection (e) of section 1722 is repealed.

(4) Subsection 1732(a) is amended by striking the second sentence.

(5) Section 1734 is amended—

(A) in subsection (b)(1)(B), by striking "on and after October 1, 1991,"; and

(B) in subsection (e)(2), by striking the last sentence.

(6)(A) Section 1736 is repealed.

(B) The table of sections at the beginning of subchapter III of chapter 87 is amended by striking the item relating to section 1736.

(7)(A) Sections 1762 and 1764 are repealed.

(B) The table of sections at the beginning of subchapter V of chapter 87 is amended by striking the items relating to sections 1762 and 1764.

(8) Section 2112(a) is amended by striking ", with the first class graduating not later than September 21, 1982".

(9) Section 2218(d)(1) is amended by striking "for fiscal years after fiscal year 1993".

(10)(A) Section 2468 is repealed.

(B) The table of sections at the beginning of chapter 146 is amended by striking the item relating to section 2468.

(11) Section 2832 is amended—

(A) by striking "(a)" before "The Secretary of Defense"; and

(B) by striking subsection (b).

(12) Section 7430(b)(2) is amended—

(A) by striking "at a price less than" and all that follows through "the current sales price" and inserting "at a price less than the current sales price";

(B) by striking "; or" and inserting a period; and

(C) by striking subparagraph (B).

(f) 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 525(b)(1) (114 Stat. 1654A–109) is amended by striking "subsection (c)" and inserting "subsections (a) and (b)".

(2) Section 1152(c)(2) (114 Stat. 1654A–323) is amended by inserting "inserting" after "and".

(g) PUBLIC LAW 106–65.—Effective as of October 5, 1999, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended as follows:

(1) Section 531(b)(2)(A) (113 Stat. 602) is amended by inserting "in subsection (a)," after "(A)".

(2) Section 549(a)(2) (113 Stat. 611) is amended by striking "such chapter" and inserting "chapter 49 of title 10, United States Code,".

(3) Section 576(a)(3) (10 U.S.C. 1501 note; 113 Stat. 625) is amended by adding a period at the end.

(4) Section 577(a)(2) (113 Stat. 625) is amended by striking "bad conduct" in the first quoted matter and inserting "bad-conduct".

(5) Section 811(d)(3)(B)(v) (10 U.S.C. 2302 note; 113 Stat. 709) is amended by striking "Mentor-Protegee" and inserting "Mentor-Protege".

(6) Section 1052(b)(1) (113 Stat. 764) is amended by striking "'The Department" and inserting "the 'Department".

(7) Section 1053(a)(5) (10 U.S.C. 113 note; 113 Stat. 764) is amended by inserting "and" before "Marines".

(8) Section 1402(f)(2)(A) (22 U.S.C. 2778 note; 113 Stat. 799) is amended by striking "3201 note" and inserting "6305(4)".

(9) Section 2902(d) (10 U.S.C. 111 note; 113 Stat. 882) is amended by striking "section 2871(b)" and inserting "section 2881(b)".

(h) PUBLIC LAW 102–484.—The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows:

(1) Section 3161(c)(6)(C) (42 U.S.C. 7274h(c)(6)(C)) is amended by striking "title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.)" and inserting "title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.)".

(2) Section 4416(b)(1) (10 U.S.C. 12681 note) is amended by striking "force reduction period" and inserting "force reduction transition period".

(3) Section 4461(5) (10 U.S.C. 1143 note) is amended by adding a period at the end.

(i) OTHER LAWS.—

(1) Section 1083(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 113 note) is amended by striking "NAMES" and inserting "NAME".

(2) Section 845(d)(1)(B)(ii) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note) is amended by inserting a closing parenthesis after "41 U.S.C. 414(3))".

(3) Section 1123(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1556) is amended by striking "Armed Forces Staff College" each place it appears and inserting "Joint Forces Staff College".

(4) Section 1412(g)(2)(C)(vii) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)(2)(C)(vii)) is amended by striking "(c)(3)" and inserting "(c)(4)".

(5) Section 8336 of title 5, United States Code, is amended—

(A) in subsection (d)(2), by striking "subsection (o)" and inserting "subsection (p)"; and

(B) by redesignating the second subsection (o), added by section 1152(a)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–320), as subsection (p).

(6) Section 9001(3) of title 5, United States Code, is amended by striking "and" at the end of subparagraph (A) and inserting "or".

(7) Section 318(h)(3) of title 37, United States Code, is amended by striking "subsection (a)" and inserting "subsection (b)".

(8) Section 3695(a)(5) of title 38, United States Code, is amended by striking "1610" and inserting "1611".

(9) Section 13(b) of the Peace Corps Act (22 U.S.C. 2512(b)) is amended by striking ", subject to section 5532 of title 5, United States Code".

(10) Section 127(g)(6) of the Trade Deficit Review Commission Act (19 U.S.C. 2213 note), as amended by section 311(b) of the Legislative Branch Appropriations Act, 2000 (Public Law 106–57; 113 Stat. 428), is amended—

(A) by striking "AUTHORITIES.—" and all that follows through "An individual" and inserting "AUTHORITIES.—An individual"; and

(B) by striking subparagraph (B).

(11) Section 28 of the Atomic Energy Act of 1954 (42 U.S.C. 2038) is amended in the last sentence by striking ", subject to" and all that follows through the period at the end and inserting a period.

(12) Section 3212 of the National Nuclear Security Administration Act (50 U.S.C. 2402) is amended by redesignating the second subsection (e), added by section 3159(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654A–469), as subsection (f).

(j) COORDINATION WITH OTHER AMENDMENTS.—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately before the other provisions of this Act.

**SEC. 1049. TERMINATION OF REFERENDUM REQUIREMENT REGARDING CONTINUATION OF MILITARY TRAINING ON ISLAND OF VIEQUES, PUERTO RICO, AND IMPOSITION OF ADDITIONAL CONDITIONS ON CLOSURE OF TRAINING RANGE.**

(a) IN GENERAL.—Title XV 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–348) is amended by striking sections 1503, 1504, and 1505 and inserting the following new sections:

**"SEC. 1503. CONDITIONS ON CLOSURE OF VIEQUES NAVAL TRAINING RANGE.**

"(a) CONDITIONAL AUTHORITY TO CLOSE.—The Secretary of the Navy may close the Vieques Naval Training Range on the island of Vieques, Puerto Rico, and discontinue training at that range only if the Secretary certifies to the President and Congress that both of the following conditions are satisfied:

"(1) One or more alternative training facilities exist that, individually or collectively, provide an equivalent or superior level of training for units of the Navy and the Marine Corps stationed or deployed in the eastern United States.

"(2) The alternative facility or facilities are available and fully capable of supporting such Navy and Marine Corps training immediately upon cessation of training on Vieques.

"(b) CONSULTATION REQUIRED.—In determining whether the conditions specified in paragraphs (1) and (2) of subsection (a) are satisfied, the Secretary of the Navy shall take into account the written views and recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps. The Secretary shall submit these written views and recommendations to Congress with the certification submitted under subsection (a).

**"SEC. 1504. CLOSURE OF VIEQUES NAVAL TRAINING RANGE AND DISPOSAL OF CLOSED RANGE.**

"(a) TERMINATION OF TRAINING AND RELATED CLOSURES.—If the conditions specified in section 1503(a) are satisfied and the Secretary of the Navy makes a determination to close the Vieques Naval Training Range and discontinue live-fire training at that range the Secretary of the Navy shall—

"(1) terminate all Navy and Marine Corps training operations on the island of Vieques;

"(2) terminate all Navy and Marine Corps operations at Naval Station Roosevelt Roads, Puerto Rico, that are related exclusively to the use of the training range on the island of Vieques by the Navy and the Marine Corps; and

"(3) close the Navy installations and facilities on the island of Vieques, other than properties exempt from conveyance and transfer under section 1506.

"(b) TRANSFER TO SECRETARY OF THE INTERIOR.—Upon termination of Navy and Marine Corps training operations on the island of Vieques, the Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior—

"(1) the Live Impact Area on the island of Vieques;

"(2) all Department of Defense real properties on the eastern side of the island that are identified as conservation zones; and

"(3) all other Department of Defense real properties on the eastern side of the island.

"(c) ADMINISTRATION BY SECRETARY OF THE INTERIOR.—

"(1) RETENTION AND ADMINISTRATION.—The Secretary of the Interior shall retain, and may not dispose of any of, the properties transferred under paragraphs (2) and (3) of subsection (b) and shall administer such properties as wildlife refuges under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) pending the enactment of a law that addresses the disposition of such properties.

"(2) LIVE IMPACT AREA.—The Secretary of the Interior shall assume responsibility for the administration of the Live Impact Area upon transfer under paragraph (1) of subsection (b), administer that area as a wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.), and deny public access to the area.

"(d) LIVE IMPACT AREA DEFINED.—In this section, the term 'Live Impact Area' means the parcel of real property, consisting of approximately 900 acres (more or less), on the island of Vieques that is designated by the Secretary of the Navy for targeting by live ordnance in the training of forces of the Navy and Marine Corps.".

(b) CONFORMING AMENDMENT.—Section 1507(c) of such Act (114 Stat. 1654A–355) is amended by striking "the issuance of a proclamation described in section 1504(a) or".

# Subtitle F—Other Matters

**SEC. 1061. ASSISTANCE FOR FIREFIGHTERS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (e) of section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended to read as follows:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $900,000,000 for each of the fiscal years 2002 through 2004 for the purposes of this section.

"(2) ADMINISTRATIVE EXPENSES.—Of the funds appropriated pursuant to paragraph (1) for a fiscal year, the Director may use not more than three percent of the funds to cover salaries and expenses and other administrative costs incurred by the

Director to operate the office established under subsection (b)(2) and make grants and provide assistance under this section.".

(b) RESPONSE TO TERRORISM OR USE OF WEAPONS OF MASS DESTRUCTION.—Subsection (b)(3) of such section is amended—

(1) in subparagraph (B), by inserting "(including response to a terrorism incident or use of a weapon of mass destruction)" after "response";

(2) in subparagraph (H), by striking "and monitoring" and inserting ", monitoring, and response to a terrorism incident or use of a weapon of mass destruction"; and

(3) in subparagraph (I), by inserting ", including protective equipment to respond to a terrorism incident or the use of a weapon of mass destruction" after "personnel" the second place it appears.

(c) TECHNICAL AMENDMENTS.—Subsection (b)(3) of such section is further amended—

(1) by striking "the grant funds—" in the matter preceding subparagraph (A) and inserting "the grant funds for one or more of the following purposes:";

(2) by capitalizing the initial letter of the first word of each of subparagraphs (A) through (N);

(3) by striking the semicolon at the end of each of subparagraphs (A) through (L) and inserting a period; and

(4) by striking "; or" at the end of subparagraph (M) and inserting a period.

**SEC. 1062. EXTENSION OF TIMES FOR COMMISSION ON THE FUTURE OF THE UNITED STATES AEROSPACE INDUSTRY TO REPORT AND TO TERMINATE.**

(a) DEADLINE FOR REPORT.—Subsection (d)(1) of section 1092 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–302) is amended by striking "March 1, 2002" and inserting "one year after the date of the first official meeting of the Commission".

(b) TERMINATION OF COMMISSION.—Subsection (g) of such section is amended by striking "30 days" and inserting "60 days".

**SEC. 1063. APPROPRIATIONS TO RADIATION EXPOSURE COMPENSATION TRUST FUND.**

Section 3(e) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended to read as follows:

"(e) APPROPRIATION.—

"(1) IN GENERAL.—There are appropriated to the Fund, out of any money in the Treasury not otherwise appropriated, for fiscal year 2002 and each fiscal year thereafter through fiscal year 2011, such sums as may be necessary, not to exceed the applicable maximum amount specified in paragraph (2), to carry out the purposes of the Fund.

"(2) LIMITATION.—Appropriation of amounts to the Fund pursuant to paragraph (1) is subject to the following maximum amounts:

"(A) For fiscal year 2002, $172,000,000.

"(B) For fiscal year 2003, $143,000,000.

"(C) For fiscal year 2004, $107,000,000.

"(D) For fiscal year 2005, $65,000,000.

"(E) For fiscal year 2006, $47,000,000.

"(F) For fiscal year 2007, $29,000,000.

"(G) For fiscal year 2008, $29,000,000.
"(H) For fiscal year 2009, $23,000,000.
"(I) For fiscal year 2010, $23,000,000.
"(J) For fiscal year 2011, $17,000,000.".

**SEC. 1064. WAIVER OF VEHICLE WEIGHT LIMITS DURING PERIODS OF NATIONAL EMERGENCY.**

Section 127 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(h) WAIVER FOR A ROUTE IN STATE OF MAINE DURING PERIODS OF NATIONAL EMERGENCY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section with respect to the portion of Interstate Route 95 in the State of Maine between Augusta and Bangor for the purpose of making bulk shipments of jet fuel to the Air National Guard Base at Bangor International Airport during a period of national emergency in order to respond to the effects of the national emergency.

"(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.".

**SEC. 1065. REPAIR, RESTORATION, AND PRESERVATION OF LAFAYETTE ESCADRILLE MEMORIAL, MARNES-LA-COQUETTE, FRANCE.**

(a) AUTHORITY TO MAKE GRANT.—(1) Subject to subsections (b) and (c), the Secretary of the Air Force may make a grant to the Lafayette Escadrille Memorial Foundation, Inc., to be used solely for the purpose of repairing, restoring, and preserving the structure, plaza, and surrounding grounds of the Lafayette Escadrille Memorial in Marnes la-Coquette, France.

(2) The amount of the grant may not exceed $2,000,000.

(b) CONTRIBUTION OF FUNDS BY FRANCE.—The Secretary of the Air Force may not make the grant authorized by subsection (a) until 30 days after the Secretary submits to Congress a report indicating that the government of France has also contributed funds toward the repair, restoration, and preservation of the memorial. The report shall specify the amount of the funds contributed by the government of France and describe the purpose for which the funds are to be used.

(c) CONDITIONS ON RECEIPT OF GRANT.—(1) The grant under subsection (a) shall be subject to the following conditions:

(A) That the Lafayette Escadrille Memorial Foundation submit to the Secretary of the Air Force an annual report, until the grant funds are fully expended, containing an itemized accounting of expenditures of grant funds and describing the progress made to repair, restore, and preserve the memorial.

(B) That the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, be given access for the purpose of audit and examination to any books, documents, papers, and records of the Lafayette Escadrille Memorial Foundation.

(C) That none of the grant funds be used for remuneration of any entity or individual associated with fundraising for any project in connection with the repair, restoration, and preservation of the memorial.

(2) The Secretary shall transmit to Congress a copy of each report received under paragraph (1)(A).

(d) REPORT ON ARCHITECTURAL AND ENGINEERING COSTS.—Not later than one year after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a report containing an estimate of the architectural and engineering costs to be incurred to fully repair, restore, and preserve the memorial and ensure the long-term structural integrity of the memorial. The estimate shall be prepared by a private United States entity, under contract with the Secretary. Funds for the contract shall also be derived from the amount specified in subsection (e).

(e) FUNDS FOR GRANT.—Funds for the grant under subsection (a) shall be derived only from amounts authorized to be appropriated under section 301(a)(4) for operation and maintenance for the Air Force.

# TITLE XI—CIVILIAN PERSONNEL MATTERS

**Subtitle A—Department of Defense Civilian Personnel**

Sec. 1101. Personnel pay and qualifications authority for Department of Defense Pentagon Reservation civilian law enforcement and security force.
Sec. 1102. Pilot program for payment of retraining expenses.
Sec. 1103. Authority of civilian employees to act as notaries.
Sec. 1104. Authority to appoint certain health care professionals in the excepted service.

**Subtitle B—Civilian Personnel Management Generally**

Sec. 1111. Authority to provide hostile fire pay.
Sec. 1112. Payment of expenses to obtain professional credentials.
Sec. 1113. Parity in establishment of wage schedules and rates for prevailing rate employees.
Sec. 1114. Modification of limitation on premium pay.
Sec. 1115. Participation of personnel in technical standards development activities.
Sec. 1116. Retention of travel promotional items.
Sec. 1117. Applicability of certain laws to certain individuals assigned to work in the Federal Government.

**Subtitle C—Intelligence Civilian Personnel**

Sec. 1121. Authority to increase maximum number of positions in the Defense Intelligence Senior Executive Service.

**Subtitle D—Matters Relating To Retirement**

Sec. 1131. Improved portability of retirement coverage for employees moving between civil service employment and employment by nonappropriated fund instrumentalities.
Sec. 1132. Federal employment retirement credit for nonappropriated fund instrumentality service.
Sec. 1133. Modification of limitations on exercise of voluntary separation incentive pay authority and voluntary early retirement authority.

## Subtitle A—Department of Defense Civilian Personnel

### SEC. 1101. PERSONNEL PAY AND QUALIFICATIONS AUTHORITY FOR DEPARTMENT OF DEFENSE PENTAGON RESERVATION CIVILIAN LAW ENFORCEMENT AND SECURITY FORCE.

Section 2674(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" before the text in the first paragraph of that subsection;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

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

"(2) For positions for which the permanent duty station is the Pentagon Reservation, the Secretary, in his sole and exclusive discretion, may without regard to the pay provisions of title 5, fix the rates of basic pay for such positions occupied by civilian law enforcement and security personnel appointed under the authority of this section so as to place such personnel on a comparable basis with personnel of other similar Federal law enforcement and security organizations within the vicinity of the Pentagon Reservation, not to exceed the basic pay for personnel performing similar duties in the United States Secret Service Uniformed Division or the United States Park Police.".

**SEC. 1102. PILOT PROGRAM FOR PAYMENT OF RETRAINING EXPENSES.**

(a) AUTHORITY TO CARRY OUT PILOT PROGRAM.—(1) The Secretary of Defense may establish a pilot program to facilitate the reemployment of eligible employees of the Department of Defense who are involuntarily separated due to a reduction in force, relocation as a result of a transfer of function, realignment, or change of duty station. Under the pilot program, the Secretary may pay retraining incentives to encourage non-Federal employers to hire and retain such eligible employees.

(2) Under the pilot program, the Secretary may enter into an agreement with a non-Federal employer under which the employer agrees—

(A) to employ an eligible employee for at least 12 months at a salary that is mutually agreeable to the employer and the eligible employee; and

(B) to certify to the Secretary the amount of costs incurred by the employer for any necessary training (as defined by the Secretary) provided to such eligible employee in connection with the employment.

(3) The Secretary may pay a retraining incentive to the non-Federal employer upon the employee's completion of 12 months of continuous employment with that employer. The Secretary shall determine the amount of the incentive, except that in no event may such amount exceed the lesser of the amount certified with respect to such eligible employee under paragraph (2)(B), or $10,000.

(4) In a case in which an eligible employee does not remain employed by the non-Federal employer for at least 12 months, the Secretary may pay to the employer a prorated amount of what would have been the full retraining incentive if the eligible employee had remained employed for such 12-month period.

(b) ELIGIBLE EMPLOYEES.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under an appointment without time limitation, who has been employed by the Department for a continuous period of at least 12 months and who has been given notice of separation pursuant to a reduction in force, relocation as a result of a transfer of function, realignment, or change of duty station, except that such term does not include—

(1) a reemployed annuitant under the retirement systems described in subchapter III of chapter 83 of title 5, United

States Code, or chapter 84 of such title, or another retirement system for employees of the Federal Government;

(2) an employee who, upon separation from Federal service, is eligible for an immediate annuity under subchapter III of chapter 83 of such title, or subchapter II of chapter 84 of such title; or

(3) an employee who is eligible for disability retirement under any of the retirement systems referred to in paragraph (1).

(c) DURATION.—No incentive may be paid under the pilot program for training commenced after September 30, 2005.

(d) DEFINITIONS.—In this section:

(1) The term "non-Federal employer" means an employer that is not an Executive agency, as defined in section 105 of title 5, United States Code, or an entity in the legislative or judicial branch of the Federal Government.

(2) The term "reduction in force" has the meaning of that term as used in chapter 35 of such title 5.

(3) The term "realignment" has the meaning given that term in section 2910 of the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

**SEC. 1103. AUTHORITY OF CIVILIAN EMPLOYEES TO ACT AS NOTARIES.**

(a) CLARIFICATION OF STATUS OF CIVILIAN ATTORNEYS ELIGIBLE TO ACT AS NOTARIES.—Subsection (b) of section 1044a of title 10, United States Code, is amended by striking "legal assistance officers" in paragraph (2) and inserting "legal assistance attorneys".

(b) OTHER CIVILIAN EMPLOYEES DESIGNATED TO ACT AS NOTARIES ABROAD.—Such subsection is further amended by adding at the end the following new paragraph:

"(5) For the performance of notarial acts at locations outside the United States, all employees of a military department or the Coast Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside the United States.".

**SEC. 1104. AUTHORITY TO APPOINT CERTAIN HEALTH CARE PROFESSIONALS IN THE EXCEPTED SERVICE.**

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

### "§ 1599c. Appointment in excepted service of certain health care professionals

"(a) AUTHORITY.—The Secretary of Defense may appoint in the excepted service without regard to the provisions of subchapter I of chapter 33 of title 5 (except as provided in section 3328 of such title and in subsection (c) of this section) an individual who has—

"(1) a recognized degree or certificate from an accredited institution in a covered health care profession or occupation; and

"(2) successfully completed a clinical education program affiliated with the Department of Defense or the Department of Veterans Affairs.

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

"(1) Physician.
"(2) Dentist.
"(3) Podiatrist.
"(4) Optometrist.
"(5) Nurse.
"(6) Physician assistant.
"(7) Expanded-function dental auxiliary.

"(c) PREFERENCES IN HIRING.—In using the authority provided by this section, the Secretary shall apply the principles of preference for the hiring of veterans and other individuals established in subchapter I of chapter 33 of title 5.

"(d) PROBATIONARY PERIOD.—There shall be an initial probationary period of two years for appointments made under the authority of this section.

"(e) PROMOTIONS AND ADVANCEMENT.—(1) Promotions of individuals appointed under the authority of this section shall be made only after an examination performed in accordance with regulations prescribed by the Secretary.

"(2) Advancement of such individuals within a pay grade may be made in increments of the minimum rate of basic pay of the grade in accordance with regulations prescribed by the Secretary.

"(f) REVIEW OF RECORDS BY BOARD.—The record of each individual appointed under the authority of this section in the medical, dental, and nursing services shall be reviewed periodically by a board, which shall be appointed in accordance with regulations prescribed by the Secretary. If such board finds that such individual is not fully qualified and satisfactory, such individual shall be separated from service.

"(g) ADJUSTMENT OF PAY.—In accordance with regulations prescribed by the Secretary, the grade and annual rate of basic pay of an individual appointed under this section whose level of assignment is changed from a level of assignment in which the grade level is based on both the nature of the assignment and qualifications may be adjusted to the grade and annual rate of basic pay otherwise appropriate.

"(h) APPOINTMENT TO ADDITIONAL POSITIONS.—(1) The Secretary may use the authority of this subsection (subject to paragraph (2)) to establish the qualifications for, and appoint and advance an individual in the Department of Defense as—

"(A) a clinical or counseling psychologist (if such psychologist holds a diploma as a diplomate in psychology from an accrediting authority approved by the Secretary);
"(B) a certified or registered respiratory therapist;
"(C) a licensed physical therapist;
"(D) a licensed practical or vocational nurse;
"(E) a pharmacist; or
"(F) an occupational therapist.

"(2) Notwithstanding any other provision of this title or any other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving an individual appointed to a position described in paragraph (1) (including such actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individual had been appointed under such title.

"(i) REINSTATEMENT.—In determining eligibility for reinstatement in the civil service of individuals appointed to positions in the Department of Defense under this section who at the time of appointment have a civil service status and whose employment in the Department of Defense is terminated, the period of service performed in the Department shall be included in computing the period of service under applicable civil service regulations.".

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

"1599c. Appointment in excepted service of certain health care professionals.".

# Subtitle B—Civilian Personnel Management Generally

**SEC. 1111. AUTHORITY TO PROVIDE HOSTILE FIRE PAY.**

(a) IN GENERAL.—Subchapter IV of chapter 59 of title 5, United States Code, is amended by adding at the end the following new section:

**"§ 5949. Hostile fire pay**

"(a) The head of an Executive agency may pay an employee hostile fire pay at the rate of $150 for any month in which the employee was—

"(1) subject to hostile fire or explosion of hostile mines;

"(2) on duty in an area in which the employee was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period on duty in that area, other employees were subject to hostile fire or explosion of hostile mines; or

"(3) killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

"(b) An employee covered by subsection (a)(3) who is hospitalized for the treatment of his or her injury or wound may be paid hostile fire pay under this section for not more than three additional months during which the employee is so hospitalized.

"(c) An employee may be paid hostile fire pay under this section in addition to other pay and allowances to which entitled, except that an employee may not be paid hostile fire pay under this section for periods of time during which the employee receives payment under section 5925 of this title because of exposure to political violence or payment under section 5928 of this title.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 59 of such title is amended by inserting at the end the following new item:

"5949. Hostile fire pay.".

(c) EFFECTIVE DATE.—This provision is effective as if enacted into law on September 11, 2001, and may be applied with respect to any hostile action that took place on or after that date.

**SEC. 1112. PAYMENT OF EXPENSES TO OBTAIN PROFESSIONAL CREDENTIALS.**

(a) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

### "§ 5757. Payment of expenses to obtain professional credentials

"(a) An agency may use appropriated funds or funds otherwise available to the agency to pay for—

"(1) expenses for employees to obtain professional credentials, including expenses for professional accreditation, State-imposed and professional licenses, and professional certification; and

"(2) examinations to obtain such credentials.

"(b) The authority under subsection (a) may not be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position that is excepted from the competitive service because of the confidential, policy-determining, policy-making, or policy-advocating character of the position.".

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

"5757. Payment of expenses to obtain professional credentials.".

**SEC. 1113. PARITY IN ESTABLISHMENT OF WAGE SCHEDULES AND RATES FOR PREVAILING RATE EMPLOYEES.**

(a) IN GENERAL.—Paragraph (2) of section 5343(d) of title 5, United States Code, is amended to read as follows:

"(2) When the lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish the wage schedules and rates on the basis of—

"(A) local private industry rates; and

"(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.".

(b) EFFECTIVE DATE.—Wage adjustments made pursuant to the amendment made by this section shall take effect in each applicable wage area on the first normal effective date of the applicable wage survey adjustment that occurs after the date of the enactment of this Act.

**SEC. 1114. MODIFICATION OF LIMITATION ON PREMIUM PAY.**

(a) IN GENERAL.—Section 5547 of title 5, United States Code, is amended to read as follows:

### "§ 5547. Limitation on premium pay

"(a) An employee may be paid premium pay under sections 5542, 5545 (a), (b), and (c), 5545a, and 5546 (a) and (b) only to the extent that the payment does not cause the aggregate of basic pay and such premium pay for any pay period for such employee to exceed the greater of—

"(1) the maximum rate of basic pay payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

"(2) the rate payable for level V of the Executive Schedule.

"(b)(1) Subject to regulations prescribed by the Office of Personnel Management, subsection (a) shall not apply to an employee

who is paid premium pay by reason of work in connection with an emergency (including a wildfire emergency) that involves a direct threat to life or property, including work performed in the aftermath of such an emergency.

"(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would, in any calendar year, exceed the greater of—

"(A) the maximum rate of basic pay payable for GS–15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

"(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

"(3) Subject to regulations prescribed by the Office of Personnel Management, the head of an agency may determine that subsection (a) shall not apply to an employee who is paid premium pay to perform work that is critical to the mission of the agency. Such employees may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would not, in any calendar year, exceed the greater of—

"(A) the maximum rate of basic pay payable for GS–15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

"(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

"(c) The Office of Personnel Management shall prescribe regulations governing the methods of applying subsection (b)(2) and (b)(3) to employees who receive premium pay under section 5545(c) or 5545a, or to firefighters covered by section 5545b who receive overtime pay for hours in their regular tour of duty, and the method of payment to such employees. Such regulations may limit the payment of such premium pay on a biweekly basis.

"(d) This section shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a.".

(b) CONFORMING AMENDMENT.—Section 118 of the Treasury and General Government Appropriations Act, 2001 (as enacted into law by section 1(3) of Public Law 106–554; 114 Stat. 2763A–134) is amended by striking "limitation on the rate of pay payable during a pay period contained in section 5547(c)(2)" and inserting "restrictions contained in section 5547".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first pay period beginning on or after the date that is 120 days following the date of enactment of this Act.

**SEC. 1115. PARTICIPATION OF PERSONNEL IN TECHNICAL STANDARDS DEVELOPMENT ACTIVITIES.**

Subsection (d) of section 12 of the National Technology Transfer and Advancement Act of 1995 (Pub. Law 104–113; 15 U.S.C. 272 note) is amended—

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

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

"(4) EXPENSES OF GOVERNMENT PERSONNEL.—Section 5946 of title 5, United States Code, shall not apply with respect to any activity of an employee of a Federal agency or department that is determined by the head of that agency or department as being an activity undertaken in carrying out this subsection.".

**SEC. 1116. RETENTION OF TRAVEL PROMOTIONAL ITEMS.**

(a) DEFINITION.—In this section, the term "agency" has the meaning given that term under section 5701 of title 5, United States Code.

(b) RETENTION OF TRAVEL PROMOTIONAL ITEMS.—To the extent provided under subsection (c), a Federal employee, member of the Foreign Service, member of a uniformed service, any family member or dependent of such an employee or member, or other individual who receives a promotional item (including frequent flyer miles, upgrade, or access to carrier clubs or facilities) as a result of using travel or transportation services obtained at Federal Government expense or accepted under section 1353 of title 31, United States Code, may retain the promotional item for personal use if the promotional item is obtained under the same terms as those offered to the general public and at no additional cost to the Federal Government.

(c) LIMITATION.—Subsection (b)—

(1) applies only to travel that—

(A) is at the expense of an agency; or

(B) is accepted by an agency under section 1353 of title 31, United States Code; and

(2) does not apply to travel by any officer, employee, or other official of the Government who is not in or under any agency.

(d) REGULATORY AUTHORITY.—Any agency with authority to prescribe regulations governing the acquisition, acceptance, use, or disposal of any travel or transportation services obtained at Government expense or accepted under section 1353 of title 31, United States Code, may prescribe regulations to carry out subsection (b) with respect to those travel or transportation services.

(e) REPEAL OF SUPERSEDED LAW.—Section 6008 of the Federal Acquisition Streamlining Act of 1994 (5 U.S.C. 5702 note; Public Law 103–355) is repealed.

(f) APPLICABILITY.—This section shall apply with respect to promotional items received before, on, or after the date of enactment of this Act.

**SEC. 1117. APPLICABILITY OF CERTAIN LAWS TO CERTAIN INDIVIDUALS ASSIGNED TO WORK IN THE FEDERAL GOVERNMENT.**

Section 3374(c)(2) of title 5, United States Code, is amended by inserting "the Ethics in Government Act of 1978, section 27

of the Office of Federal Procurement Policy Act," after "chapter 73 of this title,".

## Subtitle C—Intelligence Civilian Personnel

**SEC. 1121. AUTHORITY TO INCREASE MAXIMUM NUMBER OF POSITIONS IN THE DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.**

Section 1606(a) of title 10, United States Code, is amended by striking "517" and inserting "544".

## Subtitle D—Matters Relating To Retirement

**SEC. 1131. IMPROVED PORTABILITY OF RETIREMENT COVERAGE FOR EMPLOYEES MOVING BETWEEN CIVIL SERVICE EMPLOYMENT AND EMPLOYMENT BY NONAPPROPRIATED FUND INSTRUMENTALITIES.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8347(q) of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) in paragraph (2)(B)—

(A) by striking "vested"; and

(B) by striking ", as the term" and all that follows through "such system".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8461(n) of such title is amended—

(1) in paragraph (1)—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) in paragraph (2)(B)—

(A) by striking "vested"; and

(B) by striking ", as the term" and all that follows through "such system".

**SEC. 1132. FEDERAL EMPLOYMENT RETIREMENT CREDIT FOR NONAPPROPRIATED FUND INSTRUMENTALITY SERVICE.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—(1) Section 8332(b) of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (15);

(B) by striking the period at the end of paragraph (16) and inserting "; and";

(C) by inserting after paragraph (16) the following new paragraph:

"(17) service performed by any individual as an employee paid from nonappropriated funds of an instrumentality of the Department of Defense or the Coast Guard described in section

2105(c) that is not covered by paragraph (16) and that is not otherwise creditable, if the individual elects (in accordance with regulations prescribed by the Office) to have such service credited under this paragraph.";

(D) in the last sentence, by inserting "or (17)" after "service of the type described in paragraph (16)"; and

(E) by inserting after the last sentence the following: "Service credited under paragraph (17) may not also be credited under any other retirement system provided for employees paid from nonappropriated funds of a nonappropriated fund instrumentality.".

(2) Section 8334 of such title is amended by adding at the end the following new subsection:

"(n) Notwithstanding subsection (c), no deposit may be made with respect to service credited under section 8332(b)(17).".

(3) Section 8339 of such title is amended by adding at the end the following new subsection:

"(u) The annuity of an employee retiring under this subchapter with service credited under section 8332(b)(17) shall be reduced by the amount necessary to ensure that the present value of the annuity payable to the employee is actuarially equivalent to the present value of the annuity that would be payable to the employee under this subchapter if it were computed—

"(1) on the basis of service that does not include service credited under section 8332(b)(17); and

"(2) assuming the employee separated from service on the actual date of the separation of the employee.

The amount of the reduction shall be computed under regulations prescribed by the Office of Personnel Management for the administration of this subsection.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8411 of such title is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (4);

(ii) by striking the period at the end of paragraph (5) and inserting "; and"; and

(iii) by inserting after paragraph (5) the following new paragraph:

"(6) service performed by any individual as an employee paid from nonappropriated funds of an instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) that is not otherwise creditable, if the individual elects (in accordance with regulations prescribed by the Office) to have such service credited under this paragraph."; and

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

"(k)(1) The Office of Personnel Management shall accept, for the purposes of this chapter, the certification of the head of a nonappropriated fund instrumentality of the United States concerning service of the type described in subsection (b)(6) that was performed for such nonappropriated fund instrumentality.

"(2) Service credited under subsection (b)(6) may not also be credited under any other retirement system provided for employees paid from nonappropriated funds of a nonappropriated fund instrumentality.".

(2)(A) Section 8422 of such title is amended by adding at the end the following new subsection:

"(h) No deposit may be made with respect to service credited under section 8411(b)(6).".

(B) The heading for such section is amended to read as follows:

**"§ 8422. Deductions from pay; contributions for other service".**

(C) The item relating to such section in the table of contents at the beginning of chapter 84 of title 5, United States Code, is amended to read as follows:

"8422. Deductions from pay; contributions for other service.".

(3) Section 8415 of such title is amended by adding at the end the following new subsection:

"(j) The annuity of an employee retiring under this chapter with service credited under section 8411(b)(6) shall be reduced by the amount necessary to ensure that the present value of the annuity payable to the employee under this subchapter is actuarially equivalent to the present value of the annuity that would be payable to the employee under this subchapter if it were computed—

"(1) on the basis of service that does not include service credited under section 8411(b)(6); and

"(2) assuming the employee separated from service on the actual date of the separation of the employee.

The amount of the reduction shall be computed under regulations prescribed by the Office of Personnel Management for the administration of this subsection.".

(c) APPLICABILITY.—The amendments made by this section shall apply only to separations from service as an employee of the United States on or after the date of the enactment of this Act.

**SEC. 1133. MODIFICATION OF LIMITATIONS ON EXERCISE OF VOLUNTARY SEPARATION INCENTIVE PAY AUTHORITY AND VOLUNTARY EARLY RETIREMENT AUTHORITY.**

(a) IN GENERAL.—Section 1153(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–323) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

(B) by striking "in each of fiscal years 2002 and 2003, not more than 4000 employees of the Department of Defense are" and inserting "in fiscal year 2002 not more than 2000 employees of the Department of Defense are, and in fiscal year 2003 not more than 6000 employees of the Department of Defense are"; and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) by striking paragraph (2).

(b) CONSTRUCTION.—The amendments made by subsection (a) may be superceded by another provision of law that takes effect after the date of the enactment of this Act, and before October 1, 2003, establishing a uniform system of providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.

# TITLE XII—MATTERS RELATING TO OTHER NATIONS

**Subtitle A—Matters Related to Arms Control and Monitoring**

Sec. 1201. Clarification of authority to furnish nuclear test monitoring equipment to foreign governments.
Sec. 1202. Limitation on funding for Joint Data Exchange Center in Moscow.
Sec. 1203. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
Sec. 1204. Authority for employees of Federal Government contractors to accompany chemical weapons inspection teams at Government-owned facilities.
Sec. 1205. Plan for securing nuclear weapons, material, and expertise of the states of the former Soviet Union.

**Subtitle B—Matters Relating to Allies and Friendly Foreign Nations**

Sec. 1211. Acquisition of logistical support for security forces.
Sec. 1212. Extension of authority for international cooperative research and development projects.
Sec. 1213. Cooperative agreements with foreign countries and international organizations for reciprocal use of test facilities.
Sec. 1214. Sense of Congress on allied defense burdensharing.

**Subtitle C—Reports**

Sec. 1221. Report on significant sales and transfers of military hardware, expertise, and technology to the People's Republic of China.
Sec. 1222. Repeal of requirement for reporting to Congress on military deployments to Haiti.
Sec. 1223. Report by Comptroller General on provision of defense articles, services, and military education and training to foreign countries and international organizations.

## Subtitle A—Matters Related to Arms Control and Monitoring

### SEC. 1201. CLARIFICATION OF AUTHORITY TO FURNISH NUCLEAR TEST MONITORING EQUIPMENT TO FOREIGN GOVERNMENTS.

(a) REDESIGNATION OF EXISTING SECTION.—(1) The second section 2555 of title 10, United States Code, added by section 1203(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–324), is redesignated as section 2565.

(2) The item relating to that section in the table of sections at the beginning of chapter 152 of that title is amended to read as follows:

"2565. Nuclear test monitoring equipment: furnishing to foreign governments.".

(b) CLARIFICATION OF AUTHORITY.—Section 2565 of that title, as so redesignated by subsection (a), is amended—

(1) in subsection (a)—

(A) by striking "CONVEY OR" in the subsection heading and inserting "TRANSFER TITLE TO OR OTHERWISE";

(B) in paragraph (1)—

(i) by striking "convey" and inserting "transfer title"; and

(ii) by striking "and" at the end;

(C) by striking the period at the end of paragraph (2) and inserting "; and"; and

(D) by adding at the end the following new paragraph: "(3) inspect, test, maintain, repair, or replace any such equipment."; and

(2) in subsection (b)—

(A) by striking "conveyed or otherwise provided" and inserting "provided to a foreign government";

(B) by inserting "and" at the end of paragraph (1);

(C) by striking "; and" at the end of paragraph (2) and inserting a period; and

(D) by striking paragraph (3).

**SEC. 1202. 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 2002 for activities associated with the Joint Data Exchange Center in Moscow, Russia, may be obligated 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. 1203. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.**

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2002.—The total amount of the assistance for fiscal year 2002 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 "2001" and inserting "2002".

**SEC. 1204. AUTHORITY FOR EMPLOYEES OF FEDERAL GOVERNMENT CONTRACTORS TO ACCOMPANY CHEMICAL WEAPONS INSPECTION TEAMS AT GOVERNMENT-OWNED FACILITIES.**

(a) AUTHORITY.—Section 303(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6723(b)(2)) is amended by inserting after "designation of employees of the Federal Government" the following: "(and, in the case of an inspection of a United States Government facility, the designation of contractor personnel who shall be led by an employee of the Federal Government)".

(b) CREDENTIALS.—Section 304(c) of such Act (22 U.S.C. 6724(c)) is amended by striking "Federal government" and inserting "Federal Government (and, in the case of an inspection of a United States Government facility, any accompanying contractor personnel)".

**SEC. 1205. PLAN FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF THE STATES OF THE FORMER SOVIET UNION.**

(a) PLAN REQUIRED.—Not later than June 15, 2002, the President shall submit to Congress a plan, that has been developed in coordination with all relevant Federal agencies—

(1) for cooperating with Russia on disposing, as soon as practicable, of nuclear weapons and weapons-usable nuclear material in Russia that Russia does not retain in its nuclear arsenals;

(2) for assisting Russia in downsizing its nuclear weapons research and production complex;

(3) for cooperating with the other states of the former Soviet Union on disposing, as soon as practicable, of all nuclear weapons and weapons-usable nuclear material in such states; and

(4) for preventing the outflow from the states of the former Soviet Union of scientific expertise that could be used for developing nuclear weapons, other weapons of mass destruction, and delivery systems for such weapons.

(b) CONTENT OF PLAN.—The plan required by subsection (a) shall include the following:

(1) Specific goals and measurable objectives for programs that are designed to carry out the objectives described in subsection (a).

(2) Criteria for success for such programs, and a strategy for eventual termination of United States contributions to such programs and assumption of the ongoing support of those programs by others.

(3) A description of any administrative and organizational changes necessary to improve the coordination and effectiveness of such programs. In particular, the plan shall include consideration of the creation of an interagency committee that would have primary responsibilities within the executive branch for—

(A) monitoring United States nonproliferation efforts in the states of the former Soviet Union;

(B) coordinating the implementation of United States policy with respect to such efforts; and

(C) recommending to the President integrated policies, budget options, and private sector and international contributions for such programs.

(4) An estimate of the cost of carrying out such programs.

(c) CONSULTATION.—In developing the plan required by subsection (a), the President—

(1) is encouraged to consult with the relevant states of the former Soviet Union regarding the practicality of various options; and

(2) shall consult with the majority and minority leadership of the appropriate committees of Congress.

# Subtitle B—Matters Relating to Allies and Friendly Foreign Nations

### SEC. 1211. ACQUISITION OF LOGISTICAL SUPPORT FOR SECURITY FORCES.

Section 5 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3424) is amended by adding at the end the following new subsection:

"(d)(1) The United States may use contractors to provide logistical support to the Multinational Force and Observers under this section in lieu of providing such support through a logistical support unit comprised of members of the United States Armed Forces.

"(2) Notwithstanding subsections (a) and (b) and section 7(b), support by a contractor under this subsection may be provided without reimbursement whenever the President determines that such action enhances or supports the national security interests of the United States.".

### SEC. 1212. EXTENSION OF AUTHORITY FOR INTERNATIONAL COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.

(a) ELIGIBILITY OF FRIENDLY FOREIGN COUNTRIES.—Section 2350a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—";

(B) by striking "major allies of the United States or NATO organizations" and inserting "countries or organizations referred to in paragraph (2)"; and

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

"(2) The countries and organizations with which the Secretary may enter into a memorandum of agreement (or other formal agreement) under paragraph (1) are as follows:

"(A) The North Atlantic Treaty Organization.

"(B) A NATO organization.

"(C) A member nation of the North Atlantic Treaty Organization.

"(D) A major non-NATO ally.

"(E) Any other friendly foreign country.";

(2) in subsection (b)(1)—

(A) by striking "its major non-NATO allies" and inserting "a country or organization referred to in subsection (a)(2)"; and

(B) by striking "(NATO)";

(3) in subsection (d)—

(A) in paragraph (1), by striking "the major allies of the United States" and inserting "countries and organizations referred to in subsection (a)(2)"; and

(B) in paragraph (2)—

(i) by striking "major ally of the United States" and inserting "country or organization referred to in subsection (a)(2)"; and

(ii) by striking "that ally's contribution" and inserting "the contribution of that country or organization";

(4) in subsection (e)(2)—

(A) in subparagraph (A), by striking "one or more of the major allies of the United States" and inserting "any country or organization referred to in subsection (a)(2)";

(B) in subparagraph (B), by striking "major allies of the United States or NATO organizations" and inserting "countries and organizations referred to in subsection (a)(2)";

(C) in subparagraph (C), by striking "major allies of the United States" and inserting "countries and organizations referred to in subsection (a)(2)"; and

(D) in subparagraph (D), by striking "major allies of the United States" and inserting "countries and organizations referred to in subsection (a)(2)";

(5) paragraphs (1)(A) and (4)(A) of subsection (g), by striking "major allies of the United States and other friendly foreign countries" and inserting "countries referred to in subsection (a)(2)";

(6) in subsection (h), by striking "major allies of the United States" and inserting "member nations of the North Atlantic Treaty Organization, major non-NATO allies, and other friendly foreign countries"; and

(7) in subsection (i)—

(A) in paragraph (1), by striking "major allies of the United States or NATO organizations" and inserting "countries and organizations referred to in subsection (a)(2)";

(B) by striking paragraph (2); and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) NOTICE-AND-WAIT REQUIREMENT.—Subsection (a) of such section is further amended by adding at the end the following new paragraph:

"(3) If such a memorandum of understanding (or other formal agreement) is with a country referred to in subparagraph (E) of paragraph (2), such memorandum (or agreement) may go into effect only after the Secretary submits to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report with respect to the proposed memorandum (or agreement) and a period of 30 days has passed after the report has been submitted.".

(c) DELEGATION OF AUTHORITY TO DETERMINE ELIGIBILITY OF PROJECTS.—Subsection (b)(2) of such section is amended by striking "to the Deputy Secretary of Defense" and all that follows through the period at the end and inserting "to the Deputy Secretary of Defense and to one other official of the Department of Defense.".

(d) REVISION OF REQUIREMENT FOR ANNUAL REPORT ON ELIGIBLE COUNTRIES.—Subsection (f)(2) of such section is amended to read as follows:

"(2) Not later than January 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and on Foreign Relations of the Senate and to the Committees on Armed Services and on International Relations of the House of Representatives a report specifying—

"(A) the countries that are eligible to participate in a cooperative project agreement under this section; and

"(B) the criteria used to determine the eligibility of such countries.".

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

**"§ 2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries"**.

(2) The item relating to such section in the table of sections at the beginning of subchapter II of chapter 138 of title 10, United States Code, is amended to read as follows:

"2350a. Cooperative research and development agreements: NATO organizations; allied and friendly foreign countries.".

**SEC. 1213. COOPERATIVE AGREEMENTS WITH FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS FOR RECIPROCAL USE OF TEST FACILITIES.**

(a) AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations**

"(a) AUTHORITY.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a memorandum of understanding (or other formal agreement) with a foreign country or international organization to provide for the testing, on a reciprocal basis, of defense equipment (1) by the United States using test facilities of that country or organization, and (2) by that country or organization using test facilities of the United States.

"(b) PAYMENT OF COSTS.—A memorandum or other agreement under subsection (a) shall provide that, when a party to the agreement uses a test facility of another party to the agreement, the party using the test facility is charged by the party providing the test facility in accordance with the following principles:

"(1) The user party shall be charged the amount equal to the direct costs incurred by the provider party in furnishing test and evaluation services by the providing party's officers, employees, or governmental agencies.

"(2) The user party may also be charged indirect costs relating to the use of the test facility, but only to the extent specified in the memorandum or other agreement.

"(c) DETERMINATION OF INDIRECT COSTS; DELEGATION OF AUTHORITY.—(1) The Secretary of Defense shall determine the appropriateness of the amount of indirect costs charged by the United States pursuant to subsection (b)(2).

"(2) The Secretary may delegate the authority under paragraph (1) only to the Deputy Secretary of Defense and to one other official of the Department of Defense.

"(d) RETENTION OF FUNDS COLLECTED BY THE UNITED STATES.—Amounts collected by the United States from a party using a test facility of the United States pursuant to a memorandum or other agreement under this section shall be credited to the appropriation accounts from which the costs incurred by the United States in providing such test facility were paid.

"(e) DEFINITIONS.—In this section:

"(1) The term 'direct cost', with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

"(A) means any item of cost that is easily and readily identified to a specific unit of work or output within the test facility where the use occurred, that would not have been incurred if such use had not occurred; and

"(B) may include costs of labor, materials, facilities, utilities, equipment, supplies, and any other resources of the test facility that are consumed or damaged in connection with—

"(i) the use; or

"(ii) the maintenance of the test facility for purposes of the use.

"(2) The term 'indirect cost', with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

"(A) means any item of cost that is not easily and readily identified to a specific unit of work or output within the test facility where the use occurred; and

"(B) may include general and administrative expenses for such activities as supporting base operations, manufacturing, supervision, procurement of office supplies, and utilities that are accumulated costs allocated among several users.

"(3) The term 'test facility' means a range or other facility at which testing of defense equipment may be carried out.".

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

"2350l. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations.".

**SEC. 1214. SENSE OF CONGRESS ON ALLIED DEFENSE BURDENSHARING.**

It is the sense of Congress that—

(1) the efforts of the President to increase defense burdensharing by allied and friendly nations deserve strong support; and

(2) host nation support agreements with those nations in which United States military personnel are assigned to permanent duty ashore should be negotiated consistent with section 1221(a)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 1541(a)(1)), which sets forth a goal of obtaining from any such host nation financial contributions that amount to 75 percent of the nonpersonnel

costs incurred by the United States Government for stationing United States military personnel in that nation.

# Subtitle C—Reports

**SEC. 1221. REPORT ON SIGNIFICANT SALES AND TRANSFERS OF MILITARY HARDWARE, EXPERTISE, AND TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA.**

Section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 781; 10 U.S.C. 113 note) is amended by adding at the end the following new subsection:

"(d) REPORT ON SIGNIFICANT SALES AND TRANSFERS TO CHINA.—(1) The report to be submitted under this section not later than March 1, 2002, shall include in a separate section a report describing any significant sale or transfer of military hardware, expertise, and technology to the People's Republic of China. The report shall set forth the history of such sales and transfers since 1995, forecast possible future sales and transfers, and address the implications of those sales and transfers for the security of the United States and its friends and allies in Asia.

"(2) The report shall include analysis and forecasts of the following matters related to military cooperation between selling states and the People's Republic of China:

"(A) The extent in each selling state of government knowledge, cooperation, or condoning of sales or transfers of military hardware, expertise, or technology to the People's Republic of China.

"(B) An itemization of significant sales and transfers of military hardware, expertise, or technology from each selling state to the People's Republic of China that have taken place since 1995, with a particular focus on command, control, communications, and intelligence systems.

"(C) Significant assistance by any selling state to key research and development programs of China, including programs for development of weapons of mass destruction and delivery vehicles for such weapons, programs for development of advanced conventional weapons, and programs for development of unconventional weapons.

"(D) The extent to which arms sales by any selling state to the People's Republic of China are a source of funds for military research and development or procurement programs in the selling state.

"(3) The report under paragraph (1) shall include, with respect to each area of analysis and forecasts specified in paragraph (2)—

"(A) an assessment of the military effects of such sales or transfers to entities in the People's Republic of China;

"(B) an assessment of the ability of the People's Liberation Army to assimilate such sales or transfers, mass produce new equipment, or develop doctrine for use; and

"(C) the potential threat of developments related to such effects on the security interests of the United States and its friends and allies in Asia.".

**SEC. 1222. REPEAL OF REQUIREMENT FOR REPORTING TO CONGRESS ON MILITARY DEPLOYMENTS TO HAITI.**

Section 1232(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 788; 50 U.S.C. 1541 note) is repealed.

**SEC. 1223. REPORT BY COMPTROLLER GENERAL ON PROVISION OF DEFENSE ARTICLES, SERVICES, AND MILITARY EDUCATION AND TRAINING TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.**

(a) STUDY.—The Comptroller General shall conduct a study of the following:

(1) The benefits derived by each foreign country or international organization from the receipt of defense articles, defense services, or military education and training provided after December 31, 1989, pursuant to the drawdown of such articles, services, or education and training from the stocks of the Department of Defense under section 506, 516, or 552 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j, or 2348a) or any other provision of law.

(2) Any benefits derived by the United States from the provision of defense articles, defense services, and military education and training described in paragraph (1).

(3) The effect on the readiness of the Armed Forces as a result of the provision by the United States of defense articles, defense services, and military education and training described in paragraph (1).

(4) The cost to the Department of Defense with respect to the provision of defense articles, defense services, and military education and training described in paragraph (1).

(b) REPORTS.—(1) Not later than April 15, 2002, the Comptroller General shall submit to Congress an interim report containing the results to that date of the study conducted under subsection (a).

(2) Not later than August 1, 2002, the Comptroller General shall submit to Congress a final report containing the results of the study conducted under subsection (a).

# 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. Limitation on use of funds until submission of reports.
Sec. 1304. Requirement to consider 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. Prohibition against use of funds for certain construction activities.
Sec. 1307. Reports on activities and assistance under Cooperative Threat Reduction programs.
Sec. 1308. Chemical weapons destruction.
Sec. 1309. Additional matter in annual report on activities and assistance under Cooperative Threat Reduction programs.

**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 2002 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2002 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 $403,000,000 authorized to be appropriated to the Department of Defense for fiscal year 2002 in section 301(23) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $133,405,000.

(2) For strategic nuclear arms elimination in Ukraine, $51,500,000.

(3) For nuclear weapons transportation security in Russia, $9,500,000.

(4) For nuclear weapons storage security in Russia, $56,000,000.

(5) For biological weapons proliferation prevention activities in the former Soviet Union, $17,000,000.

(6) For activities designated as Other Assessments/Administrative Support, $13,221,000.

(7) For defense and military contacts, $18,650,000.

(8) For chemical weapons destruction in Russia, $50,000,000.

(9) For weapons of mass destruction infrastructure elimination activities in Kazakhstan, $6,000,000.

(10) For weapons of mass destruction infrastructure elimination activities in Ukraine, $6,024,000.

(11) For activities to assist Russia in the elimination of plutonium production reactors, $41,700,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2002 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) 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 2002 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.

(c) 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 2002 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(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 in paragraph (6), (7), or (11) of subsection (a) in excess of 115 percent of the amount specifically authorized for such purposes.

(d) MODIFICATION OF AUTHORITY TO VARY INDIVIDUAL AMOUNTS OF FY 2001 FUNDS.—Section 1302(c)(3) 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–340) is amended by striking "(4),".

**SEC. 1303. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF REPORTS.**

Not more than 50 percent of fiscal year 2002 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 2001 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 multiyear plan required to be submitted for fiscal year 2001 under section 1308(h) of such Act.

**SEC. 1304. REQUIREMENT TO CONSIDER USE OF REVENUE GENERATED BY ACTIVITIES CARRIED OUT UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

The Secretary of Defense shall consider the use of revenue generated by activities carried out under Cooperative Threat Reduction programs in negotiating and executing contracts with Russia to carry out such programs.

**SEC. 1305. PROHIBITION AGAINST USE OF FUNDS FOR SECOND WING OF FISSILE MATERIAL STORAGE FACILITY.**

(a) PROHIBITION.—No fiscal year 2002 Cooperative Threat Reduction funds and no funds authorized to be appropriated for Cooperative Threat Reduction programs for any prior fiscal year may be used for the construction of a second wing for a storage facility for Russian fissile material.

(b) CONFORMING AMENDMENT.—Section 1304 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 to read as follows:

**"SEC. 1304. LIMITATION ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.**

"Out of funds authorized to be appropriated for Cooperative Threat Reduction programs for fiscal year 2001 or any other fiscal year, not more than $412,600,000 may be used for planning, design, or construction of the first wing for the storage facility for Russian fissile material referred to in section 1302(a)(5) other than planning, design, or construction to improve security at such first wing.".

**SEC. 1306. PROHIBITION AGAINST USE OF FUNDS FOR CERTAIN CONSTRUCTION ACTIVITIES.**

No fiscal year 2002 Cooperative Threat Reduction funds may be used for construction activities carried out under Russia's program to eliminate the production of weapons grade plutonium.

**SEC. 1307. REPORTS ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

Section 1308(c)(4) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–342) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "audits" and all that follows through "conducted" and inserting "means (including program management, audits, examinations, and other means) used"; and

(B) by striking "and that such assistance is being used for its intended purpose" and inserting ", that such assistance is being used for its intended purpose, and that such assistance is being used efficiently and effectively";

(2) in subparagraph (C), by inserting "and an assessment of whether the assistance being provided is being used effectively and efficiently" before the semicolon; and

(3) in subparagraph (D), by striking "audits, examinations, and other".

**SEC. 1308. CHEMICAL WEAPONS DESTRUCTION.**

Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 794; 22 U.S.C. 5952 note) is amended by inserting before the period at the end the following: "until the Secretary of Defense submits to Congress a certification that there has been—

"(1) information provided by Russia, that the United States assesses to be full and accurate, regarding the size of the chemical weapons stockpile of Russia;

"(2) a demonstrated annual commitment by Russia to allocate at least $25,000,000 to chemical weapons elimination;

"(3) development by Russia of a practical plan for destroying its stockpile of nerve agents;

"(4) enactment of a law by Russia that provides for the elimination of all nerve agents at a single site;

"(5) an agreement by Russia to destroy or convert its chemical weapons production facilities at Volgograd and Novocheboksark; and

"(6) a demonstrated commitment from the international community to fund and build infrastructure needed to support and operate the facility.".

**SEC. 1309. ADDITIONAL MATTER IN ANNUAL REPORT ON ACTIVITIES AND ASSISTANCE 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) (as amended by section 1308) is further amended by adding at the end of the following new paragraph:

"(6) A description of the amount of the financial commitment from the international community, and from Russia, for the chemical weapons destruction facility located at Shchuch'ye, Russia, for the fiscal year beginning in the year in which the report is submitted.".

# TITLE XIV—ARMED FORCES RETIREMENT HOME

Sec. 1401. Amendment of Armed Forces Retirement Home Act of 1991.
Sec. 1402. Definitions.
Sec. 1403. Revision of authority establishing the Armed Forces Retirement Home.
Sec. 1404. Chief Operating Officer.
Sec. 1405. Residents of Retirement Home.
Sec. 1406. Local Boards of Trustees.
Sec. 1407. Directors, Deputy Directors, Associate Directors, and staff of facilities.
Sec. 1408. Disposition of effects of deceased persons and unclaimed property.
Sec. 1409. Transitional provisions.
Sec. 1410. Conforming and clerical amendments and repeals of obsolete provisions.

**SEC. 1401. AMENDMENT OF ARMED FORCES RETIREMENT HOME ACT OF 1991.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Armed Forces Retirement Home Act of 1991 (title XV of Public Law 101–510; 24 U.S.C. 401 et seq.).

**SEC. 1402. DEFINITIONS.**

Section 1502 (24 U.S.C. 401) is amended—

(1) by striking paragraphs (1), (2), (3), (4), and (5), and inserting the following new paragraphs:

"(1) The term 'Retirement Home' includes the institutions established under section 1511, as follows:

"(A) The Armed Forces Retirement Home—Washington.

"(B) The Armed Forces Retirement Home—Gulfport.

"(2) The term 'Local Board' means a Local Board of Trustees established under section 1516.

"(3) The terms 'Armed Forces Retirement Home Trust Fund' and 'Fund' mean the Armed Forces Retirement Home Trust Fund established under section 1519(a).";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), respectively; and

(3) in paragraph (5), as so redesignated—

(A) in subparagraph (C), by striking ", Manpower and Personnel" and inserting "for Personnel"; and

(B) in subparagraph (D), by striking "with responsibility for personnel matters" and inserting "for Manpower and Reserve Affairs".

**SEC. 1403. REVISION OF AUTHORITY ESTABLISHING THE ARMED FORCES RETIREMENT HOME.**

Section 1511 (24 U.S.C. 411) is amended to read as follows:

**"SEC. 1511. ESTABLISHMENT OF THE ARMED FORCES RETIREMENT HOME.**

"(a) INDEPENDENT ESTABLISHMENT.—The Armed Forces Retirement Home is an independent establishment in the executive branch.

"(b) PURPOSE.—The purpose of the Retirement Home is to provide, through the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, residences and related services for certain retired and former members of the Armed Forces.

"(c) FACILITIES.—(1) Each facility of the Retirement Home referred to in paragraph (2) is a separate establishment of the Retirement Home.

"(2) The United States Soldiers' and Airmen's Home is hereby redesignated as the Armed Forces Retirement Home—Washington. The Naval Home is hereby redesignated as the Armed Forces Retirement Home—Gulfport.

"(d) OPERATION.—(1) The Chief Operating Officer of the Armed Forces Retirement Home is the head of the Retirement Home. The Chief Operating Officer is subject to the authority, direction, and control of the Secretary of Defense.

"(2) Each facility of the Retirement Home shall be maintained as a separate establishment of the Retirement Home for administrative purposes and shall be under the authority, direction, and control of the Director of that facility. The Director of each facility of the Retirement Home is subject to the authority, direction, and control of the Chief Operating Officer.

"(e) PROPERTY AND FACILITIES.—(1) The Retirement Home shall include such property and facilities as may be acquired under paragraph (2) or accepted under section 1515(f) for inclusion in the Retirement Home.

"(2) The Secretary of Defense may acquire, for the benefit of the Retirement Home, property and facilities for inclusion in the Retirement Home.

"(3) The Secretary of Defense may dispose of any property of the Retirement Home, by sale, lease, or otherwise, that the Secretary determines is excess to the needs of the Retirement Home. The proceeds from such a disposal of property shall be deposited in the Armed Forces Retirement Home Trust Fund. No such disposal of real property shall be effective earlier than 120 days after the date on which the Secretary transmits a notification of the proposed disposal to the Committees on Armed Services of the Senate and the House of Representatives.

"(f) DEPARTMENT OF DEFENSE SUPPORT.—The Secretary of Defense may make available from the Department of Defense to the Retirement Home, on a nonreimbursable basis, administrative support and office services, legal and policy planning assistance, access to investigative facilities of the Inspector General of the Department of Defense and of the military departments, and any other support necessary to enable the Retirement Home to carry out its functions under this title.

"(g) ACCREDITATION.—The Chief Operating Officer shall endeavor to secure for each facility of the Retirement Home accreditation by a nationally recognized civilian accrediting organization, such as the Continuing Care Accreditation Commission and the Joint Commission for Accreditation of Health Organizations.

"(h) ANNUAL REPORT.—The Secretary of Defense shall transmit to Congress an annual report on the financial and other affairs of the Retirement Home for each fiscal year.".

**SEC. 1404. CHIEF OPERATING OFFICER.**

(a) ESTABLISHMENT AND AUTHORITY OF POSITION.—Section 1515 (24 U.S.C. 415) is amended to read as follows:

**"SEC. 1515. CHIEF OPERATING OFFICER.**

"(a) APPOINTMENT.—(1) The Secretary of Defense shall appoint the Chief Operating Officer of the Retirement Home.

"(2) The Chief Operating Officer shall serve at the pleasure of the Secretary of Defense.

"(3) The Secretary of Defense shall evaluate the performance of the Chief Operating Officer at least once each year.

"(b) QUALIFICATIONS.—To qualify for appointment as the Chief Operating Officer, a person shall—

"(1) be a continuing care retirement community professional;

"(2) have appropriate leadership and management skills; and

"(3) have experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

"(c) RESPONSIBILITIES.—(1) The Chief Operating Officer shall be responsible to the Secretary of Defense for the overall direction, operation, and management of the Retirement Home and shall report to the Secretary on those matters.

"(2) The Chief Operating Officer shall supervise the operation and administration of the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, including the Local Boards of those facilities.

"(3) The Chief Operating Officer shall perform the following duties:

"(A) Issue, and ensure compliance with, appropriate rules for the operation of the Retirement Home.

"(B) Periodically visit, and inspect the operation of, the facilities of the Retirement Home.

"(C) Periodically examine and audit the accounts of the Retirement Home.

"(D) Establish any advisory body or bodies that the Chief Operating Officer considers to be necessary.

"(d) COMPENSATION.—(1) The Secretary of Defense may prescribe the pay of the Chief Operating Officer, except that the annual rate of basic pay, including locality pay, of the Chief Operating Officer may not exceed the annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(2) In addition to basic pay and any locality pay prescribed for the Chief Operating Officer, the Secretary may award the Chief Operating Officer, not more than once each year, a bonus based on the performance of the Chief Operating Officer for the year. The Secretary shall prescribe the amount of any such bonus.

"(3) The total amount of the basic pay and bonus paid the Chief Operating Officer for a year under this section may not exceed the annual rate of basic pay payable for level I of the Executive Schedule under section 5312 of title 5, United States Code.

"(e) ADMINISTRATIVE STAFF.—(1) The Chief Operating Officer may, subject to the approval of the Secretary of Defense, appoint a staff to assist in the performance of the Chief Operating Officer's duties in the overall administration of the Retirement Home.

"(2) The Chief Operating Officer shall prescribe the rates of pay applicable to the members of the staff appointed under paragraph (1), except that—

"(A) a staff member who is a member of the Armed Forces on active duty or who is a full-time officer or employee of the United States may not receive additional pay by reason of service on the administrative staff; and

"(B) the limitations in section 5373 of title 5, United States Code, relating to pay set by administrative action, shall apply to the rates of pay prescribed under this paragraph.

"(f) ACCEPTANCE OF GIFTS.—(1) The Chief Operating Officer may accept gifts of money, property, and facilities on behalf of the Retirement Home.

"(2) Monies received as gifts, or realized from the disposition of property and facilities received as gifts, shall be deposited in the Armed Forces Retirement Home Trust Fund.".

(b) TRANSFER OF AUTHORITIES.—(1) The following provisions are amended by striking "Retirement Home Board" each place it appears and inserting "Chief Operating Officer":

(A) Section 1512 (24 U.S.C. 412), relating to eligibility and acceptance for residence in the Armed Forces Retirement Home.

(B) Section 1513(a) (24 U.S.C. 412(a)), relating to services provided to residents of the Armed Forces Retirement Home.

(C) Section 1518(c) (24 U.S.C. 418(c)), relating to inspection of the Armed Forces Retirement Home.

(2) Section 1519(c) (24 U.S.C. 419(c)), relating to authority to invest funds in the Armed Forces Retirement Home Trust Fund, is amended by striking "Director" and inserting "Chief Operating Officer".

(3) Section 1521(a) (24 U.S.C. 421(a)), relating to payment of residents for services, is amended by striking "Chairman of the Armed Forces Retirement Board" and inserting "Chief Operating Officer".

(4) Section 1522 (24 U.S.C. 422), relating to authority to accept certain uncompensated services, is amended—

(A) in subsection (a)—

(i) by striking "Chairman of the Retirement Home Board or the Director of each establishment" and inserting "Chief Operating Officer or the Director of a facility"; and

(ii) by striking "unless" and all that follows through "Retirement Home Board";

(B) in subsection (b)(1)—

(i) by striking "Chairman of the Retirement Home Board or the Director of the establishment" and inserting "Chief Operating Officer or the Director of a facility"; and

(ii) by inserting "offering the services" after "notify the person";

(C) in subsection (b)(2), by striking "Chairman" and inserting "Chief Operating Officer";

(D) in subsection (c), by striking "Chairman of the Retirement Home Board or the Director of an establishment" and inserting "Chief Operating Officer or the Director of a facility"; and

(E) in subsection (e)—

(i) by striking "Chairman of the Retirement Board or the Director of the establishment" in the first sentence and inserting "Chief Operating Officer or the Director of a facility"; and

(ii) by striking "Chairman" in the second sentence and inserting "Chief Operating Officer".

(5) Section 1523(b) (24 U.S.C. 423(b)), relating to preservation of historic buildings and grounds at the Armed Forces Retirement Home—Washington, is amended by striking "Chairman of the Retirement Home Board" and inserting "Chief Operating Officer".

**SEC. 1405. RESIDENTS OF RETIREMENT HOME.**

(a) REPEAL OF REQUIREMENT OF RESIDENT TO REAPPLY AFTER SUBSTANTIAL ABSENCE.—Subsection (e) of section 1512 (24 U.S.C. 412) is repealed.

(b) FEES PAID BY RESIDENTS.—Section 1514 (24 U.S.C. 414) is amended to read as follows:

**"SEC. 1514. FEES PAID BY RESIDENTS.**

"(a) MONTHLY FEES.—The Director of each facility of the Retirement Home shall collect a monthly fee from each resident of that facility.

"(b) DEPOSIT OF FEES.—The Directors shall deposit fees collected under subsection (a) in the Armed Forces Retirement Home Trust Fund.

"(c) FIXING FEES.—(1) The Chief Operating Officer, with the approval of the Secretary of Defense, shall from time to time prescribe the fees required by subsection (a). Changes to such fees shall be based on the financial needs of the Retirement Home and the ability of the residents to pay. A change of a fee may not take effect until 120 days after the Secretary of Defense transmits a notification of the change to the Committees on Armed Services of the Senate and the House of Representatives.

"(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident. The percentage shall be the same for each facility of the Retirement Home. The Secretary of Defense may make any adjustment in a percentage that the Secretary determines appropriate.

"(3) The fee shall be subject to a limitation on maximum monthly amount. The amount of the limitation shall be increased, effective on January 1 of each year, by the percentage of the increase in retired pay and retainer pay that takes effect on the preceding December 1 under subsection (b) of section 1401a of title 10, United States Code, without regard to paragraph (3) of such subsection. The first increase in a limitation on maximum monthly amount shall take effect on January 1, 2003.

"(d) TRANSITIONAL FEE STRUCTURES.—(1) Until different fees are prescribed and take effect under subsection (c), the percentages and limitations on maximum monthly amount that are applicable to fees charged residents of the Retirement Home are (subject

to any adjustment that the Secretary of Defense determines appropriate) as follows:

"(A) For months beginning before January 1, 2002—

"(i) for a permanent health care resident, 65 percent (without limitation on maximum monthly amount); and

"(ii) for a resident who is not a permanent health care resident, 40 percent (without limitation on maximum monthly amount).

"(B) For months beginning after December 31, 2001—

"(i) for an independent living resident, 35 percent, but not to exceed $1,000 each month;

"(ii) for an assisted living resident, 40 percent, but not to exceed $1,500 each month; and

"(iii) for a long-term care resident, 65 percent, but not to exceed $2,500 each month.

"(2) Notwithstanding the limitations on maximum monthly amount prescribed under subsection (c) or set forth in paragraph (1)(B), until the earlier of December 31, 2006, or the date on which an independent living resident or assisted living resident of the Armed Forces Retirement Home—Gulfport occupies a renovated room at that facility, as determined by the Secretary of Defense, the limitation on maximum monthly amount applicable to the resident for months beginning after December 31, 2001, shall be—

"(A) in the case of an independent living resident, $800; and

"(B) in the case of an assisted living resident, $1,300.".

**SEC. 1406. LOCAL BOARDS OF TRUSTEES.**

Section 1516 (24 U.S.C. 416) is amended to read as follows:

**"SEC. 1516. LOCAL BOARDS OF TRUSTEES.**

"(a) ESTABLISHMENT.—Each facility of the Retirement Home shall have a Local Board of Trustees.

"(b) DUTIES.—The Local Board for a facility shall serve in an advisory capacity to the Director of the facility and to the Chief Operating Officer.

"(c) COMPOSITION.—(1) The Local Board for a facility shall consist of at least 11 members who (except as otherwise specifically provided) shall be appointed by the Secretary of Defense in consultation with each of the Secretaries of the military departments concerned. At least one member of the Local Board shall have a perspective that is oriented toward the Retirement Home overall. The Local Board for a facility shall consist of the following members:

"(A) One member who is a civilian expert in nursing home or retirement home administration and financing from the geographical area of the facility.

"(B) One member who is a civilian expert in gerontology from the geographical area of the facility.

"(C) One member who is a service expert in financial management.

"(D) One representative of the Department of Veterans Affairs regional office nearest in proximity to the facility, who shall be designated by the Secretary of Veterans Affairs.

"(E) One representative of the resident advisory committee or council of the facility.

"(F) One enlisted representative of the Services' Retiree Advisory Council.

"(G) The senior noncommissioned officer of one of the Armed Forces.

"(H) One senior representative of the military hospital nearest in proximity to the facility.

"(I) One senior judge advocate from one of the Armed Forces.

"(J) The Director of the facility, who shall be a nonvoting member.

"(K) One senior representative of one of the chief personnel officers of the Armed Forces.

"(L) Other members designated by the Secretary of Defense (if the Local Board is to have more than 11 members).

"(2) The Secretary of Defense shall designate one member of a Local Board to serve as the chairman of the Local Board at the pleasure of the Secretary of Defense.

"(d) TERMS.—(1) Except as provided in subsections (e), (f), and (g), the term of office of a member of a Local Board shall be five years.

"(2) Unless earlier terminated by the Secretary of Defense, a person may continue to serve as a member of the Local Board after the expiration of the member's term until a successor is appointed or designated, as the case may be.

"(e) EARLY EXPIRATION OF TERM.—A member of a Local Board who is a member of the Armed Forces or an employee of the United States serves as a member of the Local Board only for as long as the member is assigned to or serving in a position for which the duties include the duty to serve as a member of the Local Board.

"(f) VACANCIES.—(1) A vacancy in the membership of a Local Board shall be filled in the manner in which the original appointment or designation was made, as the case may be.

"(2) A member appointed or designated to fill a vacancy occurring before the end of the term of the predecessor of the member shall be appointed or designated, as the case may be, for the remainder of the term for which the predecessor was appointed.

"(3) A vacancy in a Local Board shall not affect its authority to perform its duties.

"(g) EARLY TERMINATION.—The Secretary of Defense may terminate the appointment of a member of a Local Board before the expiration of the member's term for any reason that the Secretary determines appropriate.

"(h) COMPENSATION.—(1) Except as provided in paragraph (2), a member of a Local Board shall—

"(A) be provided a stipend consistent with the daily government consultant fee for each day on which the member is engaged in the performance of services for the Local Board; and

"(B) while away from home or regular place of business in the performance of services for the Local Board, be allowed travel expenses (including per diem in lieu of subsistence) in the same manner as a person employed intermittently in Government under sections 5701 through 5707 of title 5, United States Code.

"(2) A member of a Local Board who is a member of the Armed Forces on active duty or a full-time officer or employee of the United States shall receive no additional pay by reason of serving as a member of a Local Board.".

**SEC. 1407. DIRECTORS, DEPUTY DIRECTORS, ASSOCIATE DIRECTORS, AND STAFF OF FACILITIES.**

Section 1517 (24 U.S.C. 417) is amended to read as follows:

**"SEC. 1517. DIRECTORS, DEPUTY DIRECTORS, ASSOCIATE DIRECTORS, AND STAFF OF FACILITIES.**

"(a) APPOINTMENT.—The Secretary of Defense shall appoint a Director, a Deputy Director, and an Associate Director for each facility of the Retirement Home.

"(b) DIRECTOR.—The Director of a facility shall—

"(1) be a civilian with experience as a continuing care retirement community professional or a member of the Armed Forces serving on active duty in a grade below brigadier general or, in the case of the Navy, rear admiral (lower half);

"(2) have appropriate leadership and management skills; and

"(3) be required to pursue a course of study to receive certification as a retirement facilities director by an appropriate civilian certifying organization, if the Director is not so certified at the time of appointment.

"(c) DUTIES OF DIRECTOR.—(1) The Director of a facility shall be responsible for the day-to-day operation of the facility, including the acceptance of applicants to be residents of that facility.

"(2) The Director of a facility shall keep accurate and complete records of the facility.

"(d) DEPUTY DIRECTOR.—(1) The Deputy Director of a facility shall—

"(A) be a civilian with experience as a continuing care retirement community professional or a member of the Armed Forces serving on active duty in a grade below colonel or, in the case of the Navy, captain; and

"(B) have appropriate leadership and management skills.

"(2) The Deputy Director of a facility shall serve at the pleasure of the Secretary of Defense.

"(e) DUTIES OF DEPUTY DIRECTOR.—The Deputy Director of a facility shall, under the authority, direction, and control of the Director of the facility, perform such duties as the Director may assign.

"(f) ASSOCIATE DIRECTOR.—(1) The Associate Director of a facility shall—

"(A) be a member of the Armed Forces serving on active duty in the grade of Sergeant Major, Master Chief Petty Officer, or Chief Master Sergeant or a member or former member retired in that grade; and

"(B) have appropriate leadership and management skills.

"(2) The Associate Director of a facility shall serve at the pleasure of the Secretary of Defense.

"(g) DUTIES OF ASSOCIATE DIRECTOR.—The Associate Director of a facility shall, under the authority, direction, and control of the Director and Deputy Director of the facility, serve as ombudsman for the residents and perform such other duties as the Director may assign.

"(h) STAFF.—(1) The Director of a facility may, subject to the approval of the Chief Operating Officer, appoint and prescribe the pay of such principal staff as the Director considers appropriate to assist the Director in operating the facility.

"(2) The principal staff of a facility shall include persons with experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

"(i) ANNUAL EVALUATION OF DIRECTORS.—(1) The Chief Operating Officer shall evaluate the performance of each of the Directors of the facilities of the Retirement Home each year.

"(2) The Chief Operating Officer shall submit to the Secretary of Defense any recommendations regarding a Director that the Chief Operating Officer determines appropriate taking into consideration the annual evaluation.".

**SEC. 1408. DISPOSITION OF EFFECTS OF DECEASED PERSONS AND UNCLAIMED PROPERTY.**

(a) LEGAL REPRESENTATION FOR RETIREMENT HOME.—Subsection (b)(2)(A) of section 1520 (24 U.S.C. 420) is amended by inserting "who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty" after "may designate an attorney".

(b) CORRECTION OF REFERENCE.—Subsection (b)(1)(B) of such section is amended by inserting "Armed Forces" before "Retirement Home Trust Fund".

**SEC. 1409. TRANSITIONAL PROVISIONS.**

Part B is amended by striking sections 1531, 1532, and 1533 and inserting the following new sections:

**"SEC. 1531. TEMPORARY CONTINUATION OF ARMED FORCES RETIREMENT HOME BOARD.**

"Until the Secretary of Defense appoints the first Chief Operating Officer after the enactment of the National Defense Authorization Act for Fiscal Year 2002, the Armed Forces Retirement Home Board, as constituted on the day before the date of the enactment of that Act, shall continue to serve and shall perform the duties of the Chief Operating Officer.

**"SEC. 1532. DIRECTORS OF FACILITIES.**

"(a) ACTIVE DUTY OFFICERS.—During the three-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, the Directors and Deputy Directors of the facilities shall be members of the Armed Forces serving on active duty, notwithstanding the authority in subsections (b) and (d) of section 1517 for the Directors and Deputy Directors to be civilians.

"(b) TEMPORARY CONTINUATION OF DIRECTOR OF THE ARMED FORCES RETIREMENT HOME—WASHINGTON.—The person serving as the Director of the Armed Forces Retirement Home—Washington on the day before the enactment of the National Defense Authorization Act for Fiscal Year 2002 may continue to serve as the Director of that facility until April 2, 2002.

**"SEC. 1533. TEMPORARY CONTINUATION OF INCUMBENT DEPUTY DIRECTORS.**

"A person serving as the Deputy Director of a facility of the Retirement Home on the day before the enactment of the National Defense Authorization Act for Fiscal Year 2002 may continue to serve, at the pleasure of the Secretary of Defense, as the Deputy Director until the date on which a Deputy Director is appointed

for that facility under section 1517, except that the service in that position may not continue under this section after December 31, 2004.".

**SEC. 1410. CONFORMING AND CLERICAL AMENDMENTS AND REPEALS OF OBSOLETE PROVISIONS.**

(a) CONFORMING AMENDMENTS.—(1) Section 1513(b) (24 U.S.C. 413(b)), relating to services provided to residents of the Armed Forces Retirement Home, is amended by striking "maintained as a separate establishment" in the second sentence.

(2) The heading for section 1519 (24 U.S.C. 419) is amended to read as follows:

**"SEC. 1519. ARMED FORCES RETIREMENT HOME TRUST FUND."**.

(3) Section 1520 (24 U.S.C. 420), relating to disposition of effects of deceased persons and unclaimed property, is amended—

(A) in subsection (a), by striking "each facility that is maintained as a separate establishment" and inserting "a facility";

(B) in subsection (b)(2)(A), by striking "maintained as a separate establishment"; and

(C) in subsection (e), by striking "Directors" and inserting "Director of the facility".

(4)(A) Section 1523 (24 U.S.C. 423), relating to preservation of historic buildings and grounds at the Armed Forces Retirement Home—Washington, is amended by striking "United States Soldiers' and Airmen's Home" each place it appears and inserting "Armed Forces Retirement Home—Washington".

(B) The heading for such section is amended to read as follows:

**"SEC. 1523. PRESERVATION OF HISTORIC BUILDINGS AND GROUNDS AT THE ARMED FORCES RETIREMENT HOME—WASHINGTON."**.

(5) Section 1524 (24 U.S.C. 424), relating to conditional supervisory control of the Retirement Home Board, is repealed.

(b) REPEAL OF OBSOLETE PROVISIONS.—The following provisions are repealed:

(1) Section 1512(f) (24 U.S.C. 412(f)), relating to the applicability of certain eligibility requirements.

(2) Section 1519(d) (24 U.S.C. 419(d)), relating to transitional accounts in the Armed Forces Retirement Home Trust Fund.

(3) Part C, relating to effective date and authorization of appropriations.

(c) ADDITION OF TABLE OF CONTENTS.—Section 1501 (24 U.S.C. 401 note) is amended—

(1) by inserting "(a) SHORT TITLE.—" before "This title"; and

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

"(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

"Sec. 1501. Short title; table of contents.
"Sec. 1502. Definitions.

"PART A—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME

"Sec. 1511. Establishment of the Armed Forces Retirement Home.
"Sec. 1512. Residents of Retirement Home.
"Sec. 1513. Services provided residents.
"Sec. 1514. Fees paid by residents.

"Sec. 1515. Chief Operating Officer.
"Sec. 1516. Local Boards of Trustees.
"Sec. 1517. Directors, Deputy Directors, Associate Directors, and staff of facilities.
"Sec. 1518. Inspection of Retirement Home.
"Sec. 1519. Armed Forces Retirement Home Trust Fund.
"Sec. 1520. Disposition of effects of deceased persons; unclaimed property.
"Sec. 1521. Payment of residents for services.
"Sec. 1522. Authority to accept certain uncompensated services.
"Sec. 1523. Preservation of historic buildings and grounds at the Armed Forces Retirement Home—Washington.

"PART B—TRANSITIONAL PROVISIONS

"Sec. 1531. Temporary Continuation of Armed Forces Retirement Home Board.
"Sec. 1532. Directors of Facilities.
"Sec. 1533. Temporary Continuation of Incumbent Deputy Directors.".

# TITLE XV—ACTIVITIES RELATING TO COMBATING TERRORISM

**Subtitle A—Increased Funding for Combating Terrorism**

Sec. 1501. Definitions.
Sec. 1502. Authorization of emergency appropriations for fiscal year 2001 made by Public Law 107–38 and allocated for national defense functions.
Sec. 1503. Authorization of emergency supplemental appropriations for fiscal year 2002.
Sec. 1504. Authorization of use of funds for military construction projects.
Sec. 1505. Treatment of transferred amounts.
Sec. 1506. Quarterly reports.

**Subtitle B—Policy Matters Relating to Combating Terrorism**

Sec. 1511. Study and report on the role of the Department of Defense with respect to homeland security.
Sec. 1512. Combating Terrorism Readiness Initiatives Fund for combatant commands.
Sec. 1513. Conveyances of equipment and related materials loaned to State and local governments as assistance for emergency response to a use or threatened use of a weapon of mass destruction.
Sec. 1514. Two-year extension of advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction.

## Subtitle A—Increased Funding for Combating Terrorism

**SEC. 1501. DEFINITIONS.**

For purposes of this subtitle:

(1) The term "ETR Supplemental Appropriations Act, 2001" means the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38).

(2) The term "Emergency Supplemental Appropriations Act, 2002" means an Act (or a portion of an Act) making available for obligation emergency appropriations that were provided, subject to enactment in a subsequent appropriation Act, in the ETR Supplemental Appropriations Act, 2001.

**SEC. 1502. AUTHORIZATION OF EMERGENCY APPROPRIATIONS FOR FISCAL YEAR 2001 MADE BY PUBLIC LAW 107–38 AND ALLOCATED FOR NATIONAL DEFENSE FUNCTIONS.**

(a) ADJUSTMENT IN AUTHORIZATION AMOUNTS.—(1) Subject to paragraph (2), amounts authorized to be appropriated for fiscal year 2001 in the Floyd D. Spence National Defense Authorization

Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) are hereby increased, with respect to any such authorized amount, by the amount (if any) by which appropriations pursuant to such authorization are increased by amounts appropriated in the ETR Supplemental Appropriations Act, 2001, and transferred by the President (before the date of the enactment of this Act) to the Department of Defense or the National Nuclear Security Administration and subsequently allocated to such appropriations.

(2) Authorization amounts may not be increased under paragraph (1) in excess of amounts derived from allocation of the amounts specified in subsection (b), for the Department of Defense, and in subsection (c), for the National Nuclear Security Administration.

(b) DEPARTMENT OF DEFENSE.—Amounts referred to in subsection (a)(2) for the Department of Defense are amounts for emergency expenses to respond to the terrorist attacks on the United States that occurred on September 11, 2001, allocated to the Department of Defense for fiscal year 2001 for the use of the Armed Forces and other activities and agencies of the Department of Defense, including the purposes stated in section 1504, in the total amount of $13,741,000,000, as follows:

(1) INCREASED SITUATIONAL AWARENESS.—For Increased Situational Awareness, $4,272,000,000.

(2) ENHANCED FORCE PROTECTION.—For Enhanced Force Protection, $1,509,000,000.

(3) IMPROVED COMMAND AND CONTROL.—For Improved Command and Control, $1,403,000,000.

(4) INCREASED WORLDWIDE POSTURE.—For Increased Worldwide Posture, $3,603,000,000.

(5) OFFENSIVE COUNTERTERRORISM.—For Offensive Counterterrorism, $1,459,000,000.

(6) INITIAL CRISIS RESPONSE.—For Initial Crisis Response, $637,000,000.

(7) PENTAGON REPAIR AND UPGRADE.—For Pentagon Repair and Upgrade Activities, $530,000,000.

(8) FUEL COSTS.—For increased fuel costs, $100,000,000.

(9) AIRPORT AND BORDER SECURITY.—For airport and border security, $228,000,000.

(c) NNSA.—The amount referred to in subsection (a)(2) for the National Nuclear Security Administration is the amount of $5,000,000 for emergency expenses to respond to the terrorist attacks on the United States that occurred on September 11, 2001, allocated for fiscal year 2001 atomic energy defense activities of the National Nuclear Security Administration for weapons activities.

(d) TREATMENT AS ADDITIONAL AUTHORIZATIONS.—The amounts authorized to be appropriated by this section are in addition to amounts otherwise authorized to be appropriated by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act, for fiscal year 2001 for the use of the Armed Forces and other activities and agencies of the Department of Defense and for the use of the National Nuclear Security Administration.

**SEC. 1503. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.**

(a) DEPARTMENT OF DEFENSE.—For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, funds are hereby authorized to be appropriated to the Defense Emergency Response Fund for fiscal year 2002 for the use of the Armed Forces and other activities and agencies of the Department of Defense, including the purposes stated in section 1504, in the total amount of $7,349,000,000, as follows:

(1) INCREASED SITUATIONAL AWARENESS.—For Increased Situational Awareness, $1,735,000,000.

(2) ENHANCED FORCE PROTECTION.—For Enhanced Force Protection, $881,000,000.

(3) IMPROVED COMMAND AND CONTROL.—For Improved Command and Control, $219,000,000.

(4) INCREASED WORLDWIDE POSTURE.—For Increased Worldwide Posture, $2,938,000,000.

(5) OFFENSIVE COUNTERTERRORISM.—For Offensive Counterterrorism, $545,000,000.

(6) INITIAL CRISIS RESPONSE.—For Initial Crisis Response, $106,000,000.

(7) PENTAGON REPAIR AND UPGRADE.—For Pentagon Repair and Upgrade Activities, $925,000,000.

(b) NNSA.—For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States and for other expenses to increase the security of the Nation's nuclear weapons complex, funds are hereby authorized to be appropriated for fiscal year 2002 for the atomic energy defense activities of the National Nuclear Security Administration in the amount of $106,000,000, to be available for weapons activities.

(c) DEPARTMENT OF ENERGY.—For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, funds are hereby authorized to be appropriated for fiscal year 2002 to the Department of Energy in the total amount of $11,700,000, as follows:

(1) For Defense Environmental Restoration and Waste Management, $8,200,000.

(2) For Other Defense Activities, $3,500,000.

(d) TRANSFER OF DEFENSE FUNDS.—In order to carry out the specified purposes in subsection (a), the Secretary of Defense may transfer amounts authorized by subsection (a) from the Defense Emergency Response Fund to any other defense appropriations account, including the account "Support for International Sporting Events, Defense" and any military construction account as provided in section 1504.

(e) AVAILABILITY.—Amounts appropriated pursuant to authorizations in this section may remain available until expended, if so provided in appropriations Acts.

(f) SOURCE OF FUNDS.—Amounts appropriated pursuant to authorizations in this section shall be derived from amounts provided, subject to subsequent appropriation, in the ETR Supplemental Appropriations Act, 2001.

(g) TREATMENT AS ADDITIONAL AUTHORIZATIONS.—The amounts authorized to be appropriated by this section are in addition to amounts otherwise authorized to be appropriated, by the other provisions of this Act or by any other Act, for fiscal year 2001 for the use of the Armed Forces and other activities and agencies

of the Department of Defense and for the use of the National Nuclear Security Administration.

**SEC. 1504. AUTHORIZATION OF USE OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS.**

(a) AUTHORITY FOR USE OF FUNDS.—Qualified emergency defense appropriations may be used to acquire real property and carry out military construction projects not otherwise authorized by law that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism or to respond to the terrorist attacks on the United States that occurred on September 11, 2001.

(b) PROJECT AUTHORIZATION.—Any project with respect to which the Secretary makes a determination under subsection (a) and that is to be carried out using qualified emergency defense appropriations is hereby authorized for purposes of section 2802 of title 10, United States Code.

(c) QUALIFIED EMERGENCY DEFENSE APPROPRIATIONS.—For purposes of this subsection, the term "qualified emergency defense appropriations" means emergency appropriations available to the Department of Defense that are authorized by section 1502 or 1503.

**SEC. 1505. TREATMENT OF TRANSFERRED AMOUNTS.**

Amounts transferred under authority of section 1502 or 1503 shall be merged with, and shall be available for the same purposes and for the same time period as, the accounts to which transferred. The transfer authority under those sections is in addition to the transfer authority provided by section 1001 or any other provision of law.

**SEC. 1506. QUARTERLY REPORTS.**

(a) QUARTERLY REPORT.—Promptly after the end of each quarter of a fiscal year, the Secretary of Defense and the Director of Central Intelligence shall each submit to the congressional defense committees a report (in classified and unclassified form, as needed) on the use of funds authorized by this subtitle. Each such report shall, at a minimum, specify the following:

(1) Any balance of funds remaining in the Defense Emergency Response Fund as of the end of the quarter covered by the report.

(2) The accounts to which funds have been transferred or are to be transferred and the amount of each such transfer.

(3) Within such accounts, each project to which any such funds have been transferred or are to be transferred and the amount of funds obligated and the amount expended for each such project as of the end of the quarter covered by the report.

(b) INITIAL REPORT.—The first report under subsection (a) shall be submitted not later than January 2, 2002.

(c) FINAL REPORT.—No further report under subsection (a) is required after all funds made available to the Department of Defense pursuant to such Act have been obligated.

# Subtitle B—Policy Matters Relating to Combating Terrorism

**SEC. 1511. STUDY AND REPORT ON THE ROLE OF THE DEPARTMENT OF DEFENSE WITH RESPECT TO HOMELAND SECURITY.**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the appropriate role of the Department of Defense with respect to homeland security. The study shall identify and describe the policies, plans, and procedures of the Department of Defense for combating terrorism, including for the provision of support for the consequence management activities of other Federal, State, and local agencies. The study shall specifically identify the following:

(1) The strategy, roles, and responsibilities of the Department of Defense for combating terrorism.

(2) How the Department of Defense will interact with the Office of Homeland Security and how intelligence sharing efforts of the Department of Defense will be organized relative to other Federal agencies and departments and State and local governments.

(3) The ability of the Department of Defense to protect the United States from airborne threats, including threats originating from within the borders of the United States.

(4) Improvements that could be made to enhance the security of the people of the United States against terrorist threats and recommended actions (including legislative action) and programs to address and overcome existing vulnerabilities.

(5) The policies, plans, and procedures relating to how the civilian official in the Department of Defense responsible for combating terrorism and the Joint Task Force Civil Support of the Joint Forces Command will coordinate the performance of functions for combating terrorism with—

(A) teams in the Department of Defense that have responsibilities for responding to acts or threats of terrorism, including—

(i) weapons of mass destruction civil support teams when operating as the National Guard under the command of the Governor of a State, the Governor of Puerto Rico, or the Commanding General of the District of Columbia National Guard;

(ii) weapons of mass destruction civil support teams when operating as the Army National Guard of the United States or the Air National Guard of the United States under the command of the President;

(iii) teams in the departments and agencies of the Federal Government other than the Department of Defense that have responsibilities for responding to acts or threats of terrorism;

(iv) organizations outside the Federal Government, including any State, local and private entities, that function as first responders to acts or threats of terrorism; and

(v) units and organizations of the Reserve Components of the Armed Forces that have missions relating to combating terrorism;

(B) the Director of Military Support of the Department of the Army;

(C) any preparedness plans to combat terrorism that are developed for installations of the Department of Defense by the commanders of the installations and the integration of those plans with the plans of the teams and organizations described in subparagraph (A);

(D) the policies, plans and procedures for using and coordinating the integrated vulnerability assessment teams of the Joint Staff inside and outside the United States; and

(E) the missions of Fort Leonard Wood and other installations for training units, weapons of mass destruction civil support teams and other teams, and individuals in combating terrorism.

(6) The appropriate number and missions of the teams referred to in paragraph (5)(A)(i).

(7) How the Department of Defense Weapons of Mass Destruction Civil Support Teams should interact with the Federal Bureau of Investigation and the Federal Emergency Management Agency during crisis response and consequence management situations.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report including the findings of the study conducted under subsection (a).

**SEC. 1512. COMBATING TERRORISM READINESS INITIATIVES FUND FOR COMBATANT COMMANDS.**

(a) FUNDING FOR INITIATIVES.—Chapter 6 of title 10, United States Code, is amended by inserting after section 166a the following new section:

**"§ 166b. Combatant commands: funding for combating terrorism readiness initiatives**

"(a) COMBATING TERRORISM READINESS INITIATIVES FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the 'Combating Terrorism Readiness Initiatives Fund', the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for initiating any activity named in subsection (b) and for maintaining and sustaining the activity for the fiscal year in which initiated and one additional fiscal year.

"(b) AUTHORIZED ACTIVITIES.—Activities for which funds may be provided under subsection (a) are the following:

"(1) Procurement and maintenance of physical security equipment.

"(2) Improvement of physical security sites.

"(3) Under extraordinary circumstances—

"(A) physical security management planning;

"(B) procurement and support of security forces and security technicians;

"(C) security reviews and investigations and vulnerability assessments; and

"(D) any other activity relating to physical security.

"(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the Combating Terrorism Readiness Initiatives Fund, should give priority consideration to emergency or emergent unforeseen high-priority requirements for combating terrorism.

"(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided by the Chairman of the Joint Chiefs of Staff for a fiscal year out of the Combating Terrorism Readiness Initiatives Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

"(e) LIMITATION.—Funds may not be provided under this section for any activity that has been denied authorization by Congress.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 166a the following new item:

"166b. Combatant commands: funding for combating terrorism readiness initiatives.".

**SEC. 1513. CONVEYANCES OF EQUIPMENT AND RELATED MATERIALS LOANED TO STATE AND LOCAL GOVERNMENTS AS ASSISTANCE FOR EMERGENCY RESPONSE TO A USE OR THREATENED USE OF A WEAPON OF MASS DESTRUCTION.**

Section 1412(e) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2718; 50 U.S.C. 2312(e)) is amended by adding at the end the following new paragraph:

"(5) A conveyance of ownership of United States property to a State or local government, without cost and without regard to subsection (f) and title II of the Federal Property and Administrative Services Act of 1949 (or any other provision of law relating to the disposal of property of the United States), if the property is equipment, or equipment and related materials, that is in the possession of the State or local government on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002 pursuant to a loan of the property as assistance under this section.".

**SEC. 1514. TWO-YEAR EXTENSION OF ADVISORY PANEL TO ASSESS DOMESTIC RESPONSE CAPABILITIES FOR TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION.**

(a) EXTENSION OF ADVISORY PANEL.—Section 1405 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 2301 note) is amended—

(1) in subsection (h)(2), by striking "2001" and inserting "2003"; and

(2) in subsection (l), by striking "three years" and inserting "five years".

(b) PAY AND EXPENSES OF MEMBERS.—(1) Subsection (k) of such section is amended to read as follows:

"(k) COMPENSATION OF PANEL MEMBERS.—The provisions of paragraph (4) of section 591(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in section 101(d) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–212)), shall apply to members of the panel

in the same manner as to members of the National Commission on Terrorism under that paragraph.".

(2) The amendment made by paragraph (1) shall apply with respect to periods of service on the advisory panel under section 1405 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 on or after the date of the enactment of this Act.

# TITLE XVI—UNIFORMED SERVICES VOTING

Sec. 1601. Sense of Congress regarding the importance of voting.
Sec. 1602. Voting assistance programs.
Sec. 1603. Guarantee of residency for military personnel.
Sec. 1604. Electronic voting demonstration project.
Sec. 1605. Governors' reports on implementation of recommendations for changes in State law made under Federal Voting Assistance Program.
Sec. 1606. Simplification of voter registration and absentee ballot application procedures for absent uniformed services and overseas voters.
Sec. 1607. Use of certain Department of Defense facilities as polling places.

**SEC. 1601. SENSE OF CONGRESS REGARDING THE IMPORTANCE OF VOTING.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that each person who is an administrator of a Federal, State, or local election—

(1) should be aware of the importance of the ability of each uniformed services voter to exercise the right to vote; and

(2) should perform that person's duties as an election administrator with the intent to ensure that—

(A) each uniformed services voter receives the utmost consideration and cooperation when voting;

(B) each valid ballot cast by such a voter is duly counted; and

(C) all eligible American voters, regardless of race, ethnicity, disability, the language they speak, or the resources of the community in which they live, should have an equal opportunity to cast a vote and to have that vote counted.

(b) UNIFORMED SERVICES VOTER DEFINED.—In this section, the term "uniformed services voter" means—

(1) a member of a uniformed service (as defined in section 101(a)(5) of title 10, United States Code) in active service;

(2) a member of the merchant marine (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6)); and

(3) a spouse or dependent of a member referred to in paragraph (1) or (2) who is qualified to vote.

**SEC. 1602. VOTING ASSISTANCE PROGRAMS.**

(a) IN GENERAL.—(1) Chapter 80 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 1566. Voting assistance: compliance assessments; assistance**

"(a) REGULATIONS.—The Secretary of Defense shall prescribe regulations to require that the Army, Navy, Air Force, and Marine

Corps ensure their compliance with any directives issued by the Secretary of Defense in implementing any voting assistance program.

"(b) VOTING ASSISTANCE PROGRAMS DEFINED.—In this section, the term 'voting assistance programs' means—

"(1) the Federal Voting Assistance Program carried out under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.); and

"(2) any similar program.

"(c) ANNUAL EFFECTIVENESS AND COMPLIANCE REVIEWS.—(1) The Inspector General of each of the Army, Navy, Air Force, and Marine Corps shall conduct—

"(A) an annual review of the effectiveness of voting assistance programs; and

"(B) an annual review of the compliance with voting assistance programs of that armed force.

"(2) Upon the completion of each annual review under paragraph (1), each Inspector General specified in that paragraph shall submit to the Inspector General of the Department of Defense a report on the results of each such review. Such report shall be submitted in time each year to be reflected in the report of the Inspector General of the Department of Defense under paragraph (3).

"(3) Not later than March 31 each year, the Inspector General of the Department of Defense shall submit to Congress a report on—

"(A) the effectiveness during the preceding calendar year of voting assistance programs; and

"(B) the level of compliance during the preceding calendar year with voting assistance programs of each of the Army, Navy, Air Force, and Marine Corps.

"(d) INSPECTOR GENERAL ASSESSMENTS.—(1) The Inspector General of the Department of Defense shall periodically conduct at Department of Defense installations unannounced assessments of the compliance at those installations with—

"(A) the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.);

"(B) Department of Defense regulations regarding that Act and the Federal Voting Assistance Program carried out under that Act; and

"(C) other requirements of law regarding voting by members of the armed forces.

"(2) The Inspector General shall conduct an assessment under paragraph (1) at not less than 10 Department of Defense installations each calendar year.

"(3) Each assessment under paragraph (1) shall include a review of such compliance—

"(A) within units to which are assigned, in the aggregate, not less than 20 percent of the personnel assigned to duty at that installation;

"(B) within a representative survey of members of the armed forces assigned to that installation and their dependents; and

"(C) within unit voting assistance officers to measure program effectiveness.

"(e) REGULAR MILITARY DEPARTMENT ASSESSMENTS.—The Secretary of each military department shall include in the set of

issues and programs to be reviewed during any management effectiveness review or inspection at the installation level an assessment of compliance with the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) and with Department of Defense regulations regarding the Federal Voting Assistance Program.

"(f) VOTING ASSISTANCE OFFICERS.—Voting assistance officers shall be appointed or assigned under Department of Defense regulations. Commanders at all levels are responsible for ensuring that unit voting officers are trained and equipped to provide information and assistance to members of the armed forces on voting matters. Performance evaluation reports pertaining to a member who has been assigned to serve as a voting assistance officer shall comment on the performance of the member as a voting assistance officer.

"(g) DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.—(1) During the four months preceding a general Federal election month, the Secretary of Defense shall periodically conduct surveys of all overseas locations and vessels at sea with military units responsible for collecting mail for return shipment to the United States and all port facilities in the United States and overseas where military-related mail is collected for shipment to overseas locations or to the United States. The purpose of each survey shall be to determine if voting materials are awaiting shipment at any such location and, if so, the length of time that such materials have been held at that location. During the fourth and third months before a general Federal election month, such surveys shall be conducted biweekly. During the second and first months before a general Federal election month, such surveys shall be conducted weekly.

"(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times.

"(3) In this section, the term 'general Federal election month' means November in an even-numbered year.".

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

"1566. Voting assistance: compliance assessments; assistance.".

(b) INITIAL REPORT.—The first report under section 1566(c)(3) of title 10, United States Code, as added by subsection (a), shall be submitted not later than March 31, 2003.

**SEC. 1603. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.**

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by adding at the end the following:

"SEC. 704. (a) For purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become a resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

**SEC. 1604. ELECTRONIC VOTING DEMONSTRATION PROJECT.**

(a) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Defense shall carry out a demonstration project under which absent uniformed services voters are permitted to cast ballots in the regularly scheduled general election for Federal office for November 2002 through an electronic voting system. The project shall be carried out with participation of sufficient numbers of absent uniformed services voters so that the results are statistically relevant.

(2) AUTHORITY TO DELAY IMPLEMENTATION.—If the Secretary of Defense determines that the implementation of the demonstration project under paragraph (1) with respect to the regularly scheduled general election for Federal office for November 2002 may adversely affect the national security of the United States, the Secretary may delay the implementation of such demonstration project until the regularly scheduled general election for Federal office for November 2004. The Secretary shall notify the Committee on Armed Services and the Committee on Rules and Administration of the Senate and the Committee on Armed Services and the Committee on House Administration of the House of Representatives of any decision to delay implementation of the demonstration project.

(b) COORDINATION WITH STATE ELECTION OFFICIALS.—The Secretary shall carry out the demonstration project under this section through cooperative agreements with State election officials of States that agree to participate in the project.

(c) REPORT TO CONGRESS.—Not later than June 1 of the year following the year in which the demonstration project is conducted under this section, the Secretary of Defense shall submit to Congress a report analyzing the demonstration project. The Secretary shall include in the report any recommendations the Secretary considers appropriate for continuing the project on an expanded basis for absent uniformed services voters during the next regularly scheduled general election for Federal office.

(d) DEFINITIONS.—In this section:

(1) ABSENT UNIFORMED SERVICES VOTER.—The term "absent uniformed services voter" has the meaning given that term in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–6(1)).

(2) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

**SEC. 1605. GOVERNORS' REPORTS ON IMPLEMENTATION OF RECOMMENDATIONS FOR CHANGES IN STATE LAW MADE UNDER FEDERAL VOTING ASSISTANCE PROGRAM.**

(a) REPORTS.—(1) Whenever a State receives a uniformed services voting assistance legislative recommendation from the Secretary of Defense, acting as the Presidential designee, the chief executive authority of that State shall, not later than 90 days after receipt of that recommendation, provide a report on the status of implementation of that recommendation by that State.

(2) If a legislative recommendation referred to in paragraph (1) has been implemented, in whole or in part, by a State, the report of the chief executive authority of that State under that paragraph with respect to that recommendation shall include a description of the changes made to State law to implement the recommendation. If the recommendation has not been implemented, the report shall include a statement of the status of the recommendation before the State legislature and a statement of any recommendation the chief executive officer has made or intends to make to the legislature with respect to that recommendation.

(3) Any report under paragraph (1) shall be transmitted to the Secretary of Defense, acting as the Presidential designee. The Secretary shall transmit a copy of the response to each Member of Congress who represents that State.

(b) PERIOD OF APPLICABILITY.—This section applies with respect to any uniformed services voting assistance legislative recommendation transmitted to a State by the Secretary of Defense, acting as the Presidential designee, during the three-year period beginning on the date of the enactment of this Act.

(c) DEFINITIONS.—In this section:

(1) The term "uniformed services voting assistance legislative recommendation" means a recommendation of the Presidential designee for a modification in the laws of a State for the purpose of improving the access to the polls of absent uniformed services voters and overseas voters.

(2) The term "Presidential designee" means the head of the executive department designated by the President under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).

(3) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

(4) The term "Member of Congress" includes a Delegate or Resident Commissioner to the Congress.

**SEC. 1606. SIMPLIFICATION OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION PROCEDURES FOR ABSENT UNIFORMED SERVICES AND OVERSEAS VOTERS.**

(a) REQUIREMENT FOR STATES TO ACCEPT OFFICIAL FORM FOR SIMULTANEOUS VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATION.—

(1) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended—

(A) in paragraph (2)—

(i) by striking "general, special, primary, or runoff";

(ii) by inserting "and absentee ballot application" after "voter registration application";

(iii) by striking "and" after the semicolon at the end;

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

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

"(4) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application.".

(2) CONFORMING AMENDMENT.—Section 101(b)(2) of such Act (42 U.S.C. 1973ff(b)(2)) is amended by striking "as recommended in section 104" and inserting "as required under section 102(4)".

(b) USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.—Section 104 of such Act (42 U.S.C. 1973ff–3) is amended to read as follows:

**"SEC. 104. USE OF SINGLE APPLICATION FOR ALL SUBSEQUENT ELECTIONS.**

"(a) IN GENERAL.—If a State accepts and processes an official post card form (prescribed under section 101) submitted by an absent uniformed services voter or overseas voter for simultaneous voter registration and absentee ballot application (in accordance with section 102(a)(4)) and the voter requests that the application be considered an application for an absentee ballot for each subsequent election for Federal office held in the State during that year, the State shall provide an absentee ballot to the voter for each subsequent election for Federal office held in the State during that year.

"(b) EXCEPTION FOR VOTERS CHANGING REGISTRATION.—Subsection (a) shall not apply with respect to a voter registered to vote in a State for any election held after the voter notifies the State that the voter no longer wishes to be registered to vote in the State or after the State determines that the voter has registered to vote in another State.

"(c) REVISION OF OFFICIAL POST CARD FORM.—The Presidential designee shall revise the official post card form (prescribed under section 101) to enable a voter using the form to—

"(1) request an absentee ballot for each election for Federal office held in a State during a year; or

"(2) request an absentee ballot for only the next scheduled election for Federal office held in a State.

"(d) NO EFFECT ON VOTER REMOVAL PROGRAMS.—Nothing in this section may be construed to prevent a State from removing any voter from the rolls of registered voters in the State under any program or method permitted under section 8 of the National Voter Registration Act of 1993.".

**SEC. 1607. USE OF CERTAIN DEPARTMENT OF DEFENSE FACILITIES AS POLLING PLACES.**

(a) USE OF MILITARY FACILITIES.—Section 2670 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(b) USE OF CERTAIN FACILITIES AS POLLING PLACES.—(1) Notwithstanding chapter 29 of title 18 (including sections 592 and 593 of such title) or any other provision of law, the Secretary of Defense or Secretary of a military department may not (except as provided in paragraph (3)) prohibit the designation or use of a qualifying facility under the jurisdiction of the Secretary as an official polling place for local, State, or Federal elections.

"(2) A Department of Defense facility is a qualifying facility for purposes of this subsection if as of December 31, 2000—

"(A) the facility is designated as an official polling place by a State or local election official; or

"(B) the facility has been used as such an official polling place since January 1, 1996.

"(3) The limitation in paragraph (1) may be waived by the Secretary of Defense or Secretary of the military department concerned with respect to a particular Department of Defense facility if the Secretary of Defense or Secretary concerned determines that local security conditions require prohibition of the designation or use of that facility as an official polling place for any election.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) Such section is further amended—

(A) by striking "Under" and inserting "(a) USE BY RED CROSS.—Under"; and

(B) by striking "this section" and inserting "this subsection".

(2) The heading of such section is amended to read as follows:

**"§ 2670. Military installations: use by American National Red Cross; use as polling places"**.

(3) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2670. Military installations: use by American National Red Cross; use as polling places.".

# DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

**SEC. 2001. SHORT TITLE; DEFINITION.**

(a) SHORT TITLE.—This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2002".

(b) DEFINITION OF FISCAL YEAR 2001 DEFENSE AUTHORIZATION ACT.—In this division, the term "Spence Act" means the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398 (114 Stat. 1654).

# 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 2001 projects.
Sec. 2106. Modification of authority to carry out certain fiscal year 2000 projects.

**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 | $5,150,000 |
| | Fort Rucker | $18,200,000 |
| | Redstone Arsenal | $9,900,000 |
| Alaska | Fort Richardson | $115,000,000 |
| | Fort Wainwright | $27,200,000 |
| Arizona | Fort Huachuca | $6,100,000 |
| | Yuma Proving Ground | $3,100,000 |
| California | Defense Language Institute | $5,900,000 |
| | Fort Irwin | $23,000,000 |
| Colorado | Fort Carson | $66,000,000 |
| District of Columbia | Fort McNair | $11,600,000 |
| Georgia | Fort Benning | $23,900,000 |
| | Fort Gillem | $34,600,000 |
| | Fort Gordon | $34,000,000 |
| | Fort Stewart/Hunter Army Air Field | $39,800,000 |
| Hawaii | Kahuku Windmill Site | $900,000 |
| | Navy Public Works Center, Pearl Harbor | $11,800,000 |
| | Pohakuloa Training Facility | $6,600,000 |
| | Wheeler Army Air Field | $50,000,000 |
| Illinois | Rock Island Arsenal | $3,500,000 |
| Kansas | Fort Riley | $10,900,000 |
| Kentucky | Fort Campbell | $88,900,000 |
| | Fort Knox | $12,000,000 |
| Louisiana | Fort Polk | $21,200,000 |
| Maryland | Aberdeen Proving Ground | $58,300,000 |
| | Fort Meade | $11,200,000 |
| Missouri | Fort Leonard Wood | $7,850,000 |
| New Jersey | Fort Monmouth | $20,000,000 |
| | Picatinny Arsenal | $10,200,000 |
| New Mexico | White Sands Missile Range | $7,600,000 |
| New York | Fort Drum | $56,350,000 |
| North Carolina | Fort Bragg | $21,300,000 |
| | Sunny Point Military Ocean Terminal | $11,400,000 |
| Oklahoma | Fort Sill | $5,100,000 |
| South Carolina | Fort Jackson | $65,650,000 |
| Texas | Corpus Christi Army Depot | $10,400,000 |
| | Fort Sam Houston | $2,250,000 |
| | Fort Bliss | $5,000,000 |
| | Fort Hood | $104,200,000 |
| Virginia | Fort Belvoir | $35,950,000 |
| | Fort Eustis | $34,650,000 |
| | Fort Lee | $23,900,000 |
| Washington | Fort Lewis | $238,200,000 |
| | Total: | $1,358,750,000 |

(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 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 |
|---|---|---|
| Germany | Area Support Group, Bamberg | $36,000,000 |
| | Area Support Group, Darmstadt | $13,500,000 |
| | Baumholder | $9,000,000 |
| | Hanau | $7,200,000 |
| | Heidelberg | $15,300,000 |
| | Mannheim | $16,000,000 |
| | Wiesbaden Air Base | $26,300,000 |
| Japan | Camp Schab | $3,800,000 |
| Korea | Camp Carroll | $16,593,000 |
| | Camp Casey | $8,500,000 |
| | Camp Hovey | $35,750,000 |
| | Camp Humphreys | $14,500,000 |
| | Camp Jackson | $6,100,000 |
| | Camp Stanley | $28,000,000 |
| | Camp Yongsan | $12,800,000 |
| Kwajalein | Kwajalein Atoll | $11,000,000 |
| | Total: | $260,343,000 |

(c) UNSPECIFIED WORLDWIDE.—Using 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 | Classified Location | $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) 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 | 32 Units | $12,000,000 |
| Arizona | Fort Huachuca | 72 Units | $10,800,000 |
| Kansas | Fort Leavenworth | 80 Units | $20,000,000 |
| Texas | Fort Bliss | 76 Units | $13,600,000 |
| | Fort Sam Houston | 80 Units | $11,200,000 |
| Korea | Camp Humphreys | 54 Units | $12,800,000 |
| | | Total: | $80,400,000 |

(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 $11,592,000.

**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 $220,750,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $3,155,594,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,127,750,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $260,343,000.

(3) For a military construction project at an unspecified worldwide location authorized by section 2101(c), $4,000,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $18,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $159,533,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $312,742,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,089,573,000.

(7) For the construction of a cadet development center at the United States Military Academy, West Point, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2182), $37,900,000.

(8) For the construction of phase 2C of a barracks complex, Tagaytay Street, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 825), $17,500,000.

(9) For the construction of phase 1C of a barracks complex, Wilson Street, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 825), $23,000,000.

(10) For construction of phase 2 of a basic combat training complex at Fort Leonard Wood, Missouri, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389), as amended by section 2105 of this Act, $27,000,000.

(11) For the construction of phase 2 of a battle simulation center at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389), as amended by section 2105 of this Act, $9,000,000.

(12) For the construction of phase 1 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 Spence Act; 114 Stat. 1654A–389), $49,000,000.

(13) For the construction of phase 1 of a barracks complex, Longstreet 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 Spence Act; 114 Stat. 1654A–389), $27,000,000.

(14) For the construction of a multipurpose digital training range at Fort Hood, Texas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389), as amended by section 2105 of this Act, $13,000,000.

(15) For the homeowners assistance program, as authorized by section 2832(a) of title 10, United States Code, $10,119,000, to remain available until expended.

(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) $52,000,000 (the balance of the amount authorized under section 2201(a) for construction of a barracks complex, D Street, at Fort Richardson, Alaska);

(3) $41,000,000 (the balance of the amount authorized under section 2201(a) for construction of phase 1 of a barracks complex, Nelson Boulevard, at Fort Carson, Colorado);

(4) $36,000,000 (the balance of the amount authorized under section 2201(a) for construction of phase 1 of a basic combat training complex at Fort Jackson, South Carolina); and

(5) $102,000,000 (the balance of the amount authorized under section 2201(a) for construction of a barracks complex, 17th & B Streets, at Fort Lewis, Washington).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (15) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $29,866,000, 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 2001 PROJECTS.**

(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–389) is amended—

(1) in the item relating to Fort Leonard Wood, Missouri, by striking "$65,400,000" in the amount column and inserting "$69,800,000";

(2) in the item relating to Fort Drum, New York, by striking "$18,000,000" in the amount column and inserting "$21,000,000";

(3) in the item relating to Fort Hood, Texas, by striking "$36,492,000" in the amount column and inserting "$39,492,000"; and

(4) by striking the amount identified as the total in the amount column and inserting "$626,374,000".

(b) CONFORMING AMENDMENTS.—Section 2104 of that Act (114 Stat. 1654A–391) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "$1,925,344,000" and inserting "$1,935,744,000"; and

(2) in subsection (b)—

(A) in paragraph (2), by striking "$22,600,000" and inserting "$27,000,000";

(B) in paragraph (3), by striking "$10,000,000" and inserting "$13,000,000"; and

(C) in paragraph (6), by striking "$6,000,000" and inserting "$9,000,000".

**SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECTS.**

Section 2104 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 826), as amended by section 2105(c) of the Spence Act; 114 Stat. 1654A–393), is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$2,358,331,000" and inserting "$2,321,931,000"; and

(B) in paragraph (1), by striking "$930,058,000" and inserting "$893,658,000"; and

(2) in subsection (b)(7), by striking "$102,500,000" and inserting "$138,900,000".

# 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 2001 projects.
Sec. 2206. Modification of authority to carry out certain fiscal year 2000 project.

**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 | $22,570,000 |
| California | Marine Air-Ground Task Force Training Center, Twentynine Palms | $75,125,000 |
| | Marine Corps Air Station, Camp Pendleton | $4,470,000 |
| | Marine Corps Base, Camp Pendleton | $96,490,000 |
| | Naval Air Facility, El Centro | $23,520,000 |
| | Naval Air Station, Lemoore | $10,010,000 |
| | Naval Air Warfare Center, China Lake | $30,200,000 |
| | Naval Air Warfare Center, Point Mugu, San Nicholas Island | $13,730,000 |
| | Naval Amphibious Base, Coronado | $8,610,000 |
| | Naval Construction Battalion Center, Port Hueneme | $12,400,000 |
| | Naval Construction Training Center, Port Hueneme | $3,780,000 |
| | Naval Station, San Diego | $47,240,000 |
| District of Columbia | Naval Air Facility, Washington | $9,810,000 |
| Florida | Naval Air Station, Key West | $11,400,000 |
| | Naval Air Station, Whiting Field, Milton | $2,140,000 |
| | Naval Station, Mayport | $16,420,000 |
| | Naval Station, Pensacola | $3,700,000 |
| Hawaii | Marine Corps Base, Kaneohe | $24,920,000 |
| | Naval Magazine Lualualei | $6,000,000 |
| | Naval Shipyard, Pearl Harbor | $20,000,000 |
| | Naval Station, Pearl Harbor | $54,700,000 |
| | Navy Public Works Center, Pearl Harbor | $16,900,000 |
| Illinois | Naval Training Center, Great Lakes | $82,260,000 |
| Indiana | Naval Surface Warfare Center, Crane | $14,930,000 |
| Maine | Naval Air Station, Brunswick | $67,395,000 |
| | Naval Shipyard, Portsmouth | $14,620,000 |
| Maryland | Naval Air Warfare Center, Patuxent River | $2,260,000 |
| | Naval Air Warfare Center, St. Inigoes | $5,100,000 |
| | Naval Explosive Ordinance Disposal Technology Center, Indian Head | $1,250,000 |
| Mississippi | Naval Air Station, Meridian | $3,370,000 |
| | Naval Construction Battalion Center, Gulfport | $21,660,000 |
| | Naval Station, Pascaguola | $4,680,000 |
| Missouri | Marine Corps Support Activity, Kansas City | $9,010,000 |
| Nevada | Naval Air Station, Fallon | $6,150,000 |
| New Jersey | Naval Weapons Station, Earle | $4,370,000 |

**Navy: Inside the United States**—Continued

| State | Installation or location | Amount |
|---|---|---|
| North Carolina | Marine Corps Air Station, New River | $4,050,000 |
| | Marine Corps Base, Camp Lejeune | $67,070,000 |
| Pennsylvania | Naval Foundry and Propeller Center, Philadelphia | $14,800,000 |
| Rhode Island | Naval Station, Newport | $15,290,000 |
| | Naval Underwater Warfare Center, Newport | $9,370,000 |
| South Carolina | Marine Corps Air Station, Beaufort | $8,020,000 |
| | Marine Corps Recruit Depot, Parris Island | $5,430,000 |
| Tennessee | Naval Support Activity, Millington | $3,900,000 |
| Virginia | Marine Corps Air Facility, Quantico | $3,790,000 |
| | Marine Corps Combat Dev Com | $9,390,000 |
| | Naval Amphibious Base, Little Creek | $9,090,000 |
| | Naval Station, Norfolk | $139,270,000 |
| Washington | Naval Air Station, Whidbey Island | $7,370,000 |
| | Naval Station, Everett | $6,820,000 |
| | Strategic Weapons Facility, Bangor | $3,900,000 |
| | Total: | $1,058,750,000 |

(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 |
|---|---|---|
| Greece | Naval Support Activity Joint Headquarters Command, Larissa | $12,240,000 |
| | Naval Support Activity, Souda Bay | $3,210,000 |
| Guam | Naval Station, Guam | $9,300,000 |
| | Navy Public Works Center, Guam | $14,800,000 |
| Iceland | Naval Air Station, Keflavik | $2,820,000 |
| Italy | Naval Air Station, Sigonella | $3,060,000 |
| Spain | Naval Station, Rota | $2,240,000 |
| | Total: | $47,670,000 |

**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) at the installations, for the purposes, and in the amounts set forth in the following table:

**Navy: Family Housing**

| State | Installation or location | Purpose | Amount |
|---|---|---|---|
| Arizona | Marine Corps Air Station, Yuma | 51 Units | $9,017,000 |
| California | Marine Air-Ground Task Force Training Center, Twentynine Palms | 74 Units | $16,250,000 |
| Hawaii | Marine Corps Base, Kaneohe | 172 Units | $46,996,000 |
| | Naval Station, Pearl Harbor | 70 Units | $16,827,000 |
| Mississippi | Naval Construction Battalion Center, Gulfport | 160 Units | $23,354,000 |
| Virginia | Marine Corps Combat Development Command, Quantico | 60 Units | $7,000,000 |
| Italy | Naval Air Station, Sigonella | 10 Units | $2,403,000 |
| | | Total: | $121,847,000 |

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations 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 $6,499,000.

**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 $203,434,000.

**SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,366,742,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,005,410,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $47,670,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $10,546,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $39,557,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $331,780,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $910,095,000.

(6) For construction of phase 6 of a large anachoic chamber facility at the Patuxent River Naval Air Warfare Center, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2590), $10,770,000.

(7) For construction of the Commander-in-Chief Headquarters, Pacific Command, Camp H.M. Smith, Hawaii, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 828), as amended by section 2206 of this Act, $37,580,000.

(8) For repair of a pier at Naval Station, San Diego, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–396), $17,500,000.

(9) For replacement of a pier at Naval Station, Bremerton, Washington, formerly Naval Shipyard, Bremerton, Puget Sound, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–396), as amended by section 2205 of this Act, $24,460,000.

(10) For construction of an industrial skills center at Puget Sound Naval Shipyard, Bremerton, Washington, formerly Naval Shipyard, Bremerton, Puget Sound, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–396), as amended by section 2205 of this Act, $14,000,000.

(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 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $33,240,000 (the balance of the amount authorized under section 2201(a) for replacement of a pier, increment I, at Naval Station, Norfolk, Virginia); and

(3) $20,100,000 (the balance of the amount authorized under section 2201(a) for a combined propulsion and explosives lab at Naval Air Warfare Center, China Lake, California).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (10) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $82,626,000, 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 2001 PROJECTS.**

(a) AUTHORIZED CONSTRUCTION AND LAND ACQUISITION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–395) is amended—

(1) in the item relating to Naval Shipyard, Bremerton, Puget Sound, Washington, by striking "$100,740,000" in the amount column and inserting "$102,460,000";

(2) in the item relating to Naval Station, Bremerton, Washington, by striking "$11,930,000" in the amount column and inserting "$1,930,000"; and

(3) by striking the amount identified as the total in the amount column and inserting "$803,217,000".

(b) PLANNING AND DESIGN.—Section 2204(a) of that Act (114 Stat. 1654A–398) is amended—

(1) in the matter preceding paragraph (1), by striking "$2,227,995,000" and inserting "$2,208,407,000"; and

(2) in paragraph (4), by striking "$73,335,000" and inserting "$53,747,000".

(c) CONFORMING AMENDMENT.—Section 2204(b)(4) of that Act (114 Stat. 1654A–398) is amended by striking "$10,280,000" and inserting "$14,000,000".

**SEC. 2206. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECT.**

(a) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 828) is amended—

(1) in the item relating to Camp H.M. Smith, Hawaii, by striking "$86,050,000" in the amount column and inserting "$89,050,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$820,230,000".

(b) CONFORMING AMENDMENT.—Section 2204(b)(3) of that Act (113 Stat. 831) is amended by striking "$70,180,000" and inserting "$73,180,000".

# 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.
Sec. 2305. Modification of authority to carry out certain fiscal year 2001 projects.

**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 | $34,400,000 |
| Alaska | Eareckson Air Force Base | $4,600,000 |
| | Elmendorf Air Force Base | $32,200,000 |
| Arizona | Davis-Monthan Air Force Base | $23,500,000 |
| | Luke Air Force Base | $4,500,000 |
| Arkansas | Little Rock Air Force Base | $18,100,000 |
| California | Beale Air Force Base | $7,900,000 |
| | Edwards Air Force Base | $16,300,000 |
| | Los Angeles Air Force Base | $23,000,000 |
| | Travis Air Force Base | $10,100,000 |
| | Vandenberg Air Force Base | $11,800,000 |
| Colorado | Buckley Air Force Base | $23,200,000 |
| | Schriever Air Force Base | $30,400,000 |
| | United States Air Force Academy | $25,500,000 |
| Delaware | Dover Air Force Base | $7,300,000 |
| District of Columbia | Bolling Air Force Base | $2,900,000 |
| Florida | Cape Canaveral Air Force Station | $7,800,000 |
| | Eglin Air Force Base | $11,400,000 |
| | Hurlburt Field | $10,400,000 |
| | Tyndall Air Force Base | $20,350,000 |
| Georgia | Moody Air Force Base | $8,600,000 |
| | Robins Air Force Base | $14,650,000 |
| Idaho | Mountain Home Air Force Base | $14,600,000 |
| Kansas | McConnell Air Force Base | $5,100,000 |
| Louisiana | Barksdale Air Force Base | $5,000,000 |
| Maryland | Andrews Air Force Base | $19,420,000 |
| Massachusetts | Hanscom Air Force Base | $9,400,000 |
| Mississippi | Columbus Air Force Base | $5,000,000 |
| | Keesler Air Force Base | $28,600,000 |
| Montana | Malmstrom Air Force Base | $4,650,000 |
| Nevada | Nellis Air Force Base | $31,600,000 |
| New Jersey | McGuire Air Force Base | $36,550,000 |
| New Mexico | Cannon Air Force Base | $9,400,000 |
| | Kirtland Air Force Base | $19,800,000 |
| North Carolina | Pope Air Force Base | $17,800,000 |
| North Dakota | Grand Forks Air Force Base | $7,800,000 |
| Ohio | Wright-Patterson Air Force Base | $28,250,000 |
| Oklahoma | Altus Air Force Base | $20,200,000 |
| | Tinker Air Force Base | $21,400,000 |
| South Carolina | Shaw Air Force Base | $5,800,000 |
| South Dakota | Ellsworth Air Force Base | $12,200,000 |
| Tennessee | Arnold Air Force Base | $24,400,000 |
| Texas | Dyess Air Force Base | $16,800,000 |
| | Lackland Air Force Base | $12,800,000 |
| | Laughlin Air Force Base | $15,600,000 |
| | Sheppard Air Force Base | $45,200,000 |
| Utah | Hill Air Force Base | $44,000,000 |
| Virginia | Langley Air Force Base | $47,300,000 |
| Washington | Fairchild Air Force Base | $2,800,000 |
| | McChord Air Force Base | $20,700,000 |
| Wyoming | F. E. Warren Air Force Base | $10,200,000 |
| | Total: | $891,270,000 |

(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 |
|---|---|---|
| Germany | Ramstein Air Force Base | $42,900,000 |
| | Spangdahlem Air Base | $8,700,000 |
| Guam | Andersen Air Force Base | $10,150,000 |
| Italy | Aviano Air Base | $11,800,000 |
| Korea | Kunsan Air Base | $12,000,000 |
| | Osan Air Base | $101,142,000 |
| Oman | Masirah | $8,000,000 |
| Turkey | Eskisehir | $4,000,000 |
| | Incirlik | $5,500,000 |
| United Kingdom | Royal Air Force, Lakenheath | $11,300,000 |
| | Royal Air Force, Mildenhall | $22,400,000 |
| Wake Island | Wake Island | $25,000,000 |
| | Total: | $262,892,000 |

(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 | $4,458,000 |

**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) at the installations, for the purposes, and in the amounts set forth in the following table:

**Air Force: Family Housing**

| State | Installation or location | Purpose | Amount |
|---|---|---|---|
| Arizona | Luke Air Force Base | 120 Units | $15,712,000 |
| California | Travis Air Force Base | 118 Units | $18,150,000 |
| Colorado | Buckley Air Force Base | 55 Units | $11,400,000 |
| Delaware | Dover Air Force Base | 120 Units | $18,145,000 |
| District of Columbia | Bolling Air Force Base | 136 Units | $16,926,000 |
| Hawaii | Hickam Air Force Base | 102 Units | $25,037,000 |
| Idaho | Mountain Home Air Force Base | 56 Units | $10,000,000 |
| Louisiana | Barksdale Air Force Base | 56 Units | $7,300,000 |
| South Dakota | Ellsworth Air Force Base | 78 Units | $13,700,000 |
| Virginia | Langley Air Force Base | 4 Units | $1,200,000 |
| Portugal | Lajes Field, Azores | 64 Units | $13,230,000 |
| | | Total: | $150,800,000 |

(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 $24,558,000.

**SEC. 2303. 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 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $375,345,000.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,573,122,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $879,270,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $223,592,000.

(3) For a military construction project at an unspecified worldwide location authorized by section 2301(c), $4,458,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $11,250,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $94,970,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $550,703,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $844,715,000.

(7) $12,600,000 for construction of an air freight terminal and base supply complex at McGuire Air Force Base, New Jersey, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–399), as amended by section 2305 of this Act.

(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—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) $12,000,000 (the balance of the amount authorized under section 2301(a) for a maintenance depot hanger at Hill Air Force Base, Utah);

(3) $15,300,000 (the balance of the amount authorized under section 2301(b) for repair of an airfield runway at Wake Island); and

(4) $24,000,000 (the balance of the amount authorized under section 2301(b) for a civil engineer complex at Osan Air Force Base, Korea).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (7) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $48,436,000, 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. 2305. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECTS.**

(a) MCGUIRE AIR FORCE BASE.—The table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–399) is amended—

(1) in the item relating to McGuire Air Force Base, New Jersey, by striking "$29,772,000" in the amount column and inserting "$32,972,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$748,955,000".

(b) MOUNTAIN HOME AIR FORCE BASE.—The table in section 2302(a) of that Act (114 Stat. 1654A–400) is amended in the item relating to Mountain Home Air Force Base, Idaho, by striking "119 Units" in the purpose column and inserting "46 Units".

(c) CONFORMING AMENDMENT.—Section 2304(b)(2) of that Act (114 Stat. 1654A–402) is amended by striking "$9,400,000" and inserting "$12,600,000".

# TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Energy conservation projects.
Sec. 2403. Authorization of appropriations, Defense Agencies.
Sec. 2404. Cancellation of authority to carry out certain fiscal year 2001 projects.
Sec. 2405. Modification of authority to carry out certain fiscal year 2000 projects.
Sec. 2406. Modification of authority to carry out certain fiscal year 1999 project.
Sec. 2407. Modification of authority to carry out certain fiscal year 1995 project.
Sec. 2408. Prohibition on expenditures to develop forward operating location on Aruba.

**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 2403(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 |
|---|---|---|
| Defense Education Activity | Laurel Bay, South Carolina | $12,850,000 |
| | Marine Corps Base, Camp Lejeune, North Carolina | $8,857,000 |
| Defense Logistics Agency | Defense Distribution Depot Tracy, California | $30,000,000 |
| | Defense Distribution New Cumberland, Pennsylvania | $19,900,000 |
| | Eielson Air Force Base, Alaska | $8,800,000 |
| | Fort Belvoir, Virginia | $900,000 |
| | Grand Forks Air Force Base, North Dakota | $9,110,000 |
| | Hickam Air Force Base, Hawaii | $29,200,000 |
| | McGuire Air Force Base, New Jersey | $4,400,000 |
| | Minot Air Force Base, North Dakota | $14,000,000 |
| | Philadelphia, Pennsylvania | $2,429,000 |
| | Pope Air Force Base, North Carolina | $3,400,000 |
| Special Operations Command | Aberdeen Proving Ground, Maryland | $3,200,000 |
| | CONUS Classified | $2,400,000 |
| | Fort Benning, Georgia | $5,100,000 |
| | Fort Bragg, North Carolina | $33,562,000 |
| | Fort Lewis, Washington | $6,900,000 |
| | Hurlburt Field, Florida | $13,400,000 |
| | MacDill Air Force Base, Florida | $12,000,000 |
| | Naval Station, San Diego, California | $13,650,000 |
| TRICARE Management Activity | Andrews Air Force Base, Maryland | $10,250,000 |
| | Dyess Air Force Base, Texas | $3,300,000 |
| | F. E. Warren Air Force Base, Wyoming | $2,700,000 |
| | Fort Hood, Texas | $12,200,000 |
| | Fort Stewart/Hunter Army Air Field, Georgia | $11,000,000 |
| | Holloman Air Force Base, New Mexico | $5,700,000 |
| | Hurlburt Field, Florida | $8,800,000 |
| | Marine Corps Base, Camp Pendleton, California | $15,300,000 |
| | Marine Corps Logistics Base, Albany, Georgia | $5,800,000 |
| | Naval Air Station, Whidbey Island, Washington | $6,600,000 |
| | Naval Hospital, Twentynine Palms, California | $1,600,000 |
| | Naval Station, Mayport, Florida | $24,000,000 |
| | Naval Station, Norfolk, Virginia | $21,000,000 |
| | Schriever Air Force Base, Colorado | $4,000,000 |
| Washington Headquarters Services | Pentagon Reservation, Virginia | $25,000,000 |
| | Total: | $391,308,000 |

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(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 Education Activity | Aviano Air Base, Italy | $3,647,000 |
| | Geilenkirchen AB, Germany | $1,733,000 |
| | Heidelberg, Germany | $3,312,000 |
| | Kaiserslautern, Germany | $1,439,000 |
| | Kitzingen, Germany | $1,394,000 |
| | Landstuhl, Germany | $1,444,000 |
| | Ramstein Air Force Base, Germany | $2,814,000 |
| | Royal Air Force, Feltwell, United Kingdom | $22,132,000 |
| | Vogelweh Annex, Germany | $1,558,000 |
| | Wiesbaden Air Base, Germany | $1,378,000 |
| | Wuerzburg, Germany | $2,684,000 |
| Defense Logistics Agency | Anderson Air Force Base, Guam | $20,000,000 |
| | Camp Casey, Korea | $5,500,000 |
| | Naval Station, Rota, Spain | $3,000,000 |
| | Yokota Air Base, Japan | $13,000,000 |
| Office Secretary of Defense | Comalapa Air Base, El Salvador | $12,577,000 |
| TRICARE Management Activity | Heidelberg, Germany | $28,000,000 |
| | Lajes Field, Azores, Portugal | $3,750,000 |
| | Thule, Greenland | $10,800,000 |
| | Total: | $140,162,000 |

**SEC. 2402. ENERGY CONSERVATION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $27,100,000.

**SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2001, 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 $1,481,208,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $391,308,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $140,162,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $24,492,000.

(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, $54,496,000.

(6) For energy conservation projects authorized by section 2402, $27,100,000.

(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), $632,713,000.

(8) For military family housing functions:

(A) For improvement of military family housing and facilities, $250,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $43,762,000, of which not more than $37,298,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,000,000.

(9) For the construction of phase 6 of an ammunition demilitarization facility at Pine Bluff Arsenal, Arkansas, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), section 2406 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2197), and section 2407 of this Act, $26,000,000.

(10) For the construction of phase 3 of an ammunition demilitarization facility at Pueblo Army Depot, 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), $11,000,000.

(11) For construction of phase 4 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), $66,000,000.

(12) For construction of phase 4 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 this Act, $66,500,000.

(13) For the construction of phase 2 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. 836), as amended by section 2405 of this Act, $3,000,000.

(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 2401 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (13) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $17,575,000, 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. 2404. CANCELLATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECTS.**

(a) CANCELLATION OF PROJECTS AT CAMP PENDLETON, CALIFORNIA.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–402) is amended—

(1) under the agency heading TRICARE Management Activity, by striking the item relating to Marine Corps Base, Camp Pendleton, California; and

(2) by striking the amount identified as the total in the amount column and inserting "$242,756,000".

(b) CANCELLATION OF PROJECTS AT UNSPECIFIED WORLDWIDE LOCATIONS.—Section 2401(c) of that Act (114 Stat. 1654A–404) is amended by striking "$451,135,000" and inserting "$30,065,000".

(c) TREATMENT OF AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN CANCELED PROJECTS.—Of the amount authorized to be appropriated by section 2403(a) of that Act (114 Stat. 1654A–404), and paragraph (1) of that section, $14,150,000 shall be available for purposes relating to construction of the Portsmouth Naval Hospital, Virginia, as authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640).

(d) REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR PROJECTS AT UNSPECIFIED WORLDWIDE LOCATIONS.—Section 2403 of that Act (114 Stat. 1654A–404) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$1,883,902,000" and inserting "$1,828,872,000"; and

(B) in paragraph (3), by striking "$85,095,000" and inserting "$30,065,000"; and

(2) in subsection (b), by striking "may not exceed—" and all that follows through the end of the subsection and inserting "may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).".

**SEC. 2405. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECTS.**

(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) is amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Blue Grass Army Depot,

Kentucky, by striking "$206,800,000" in the amount column and inserting "$254,030,000";

(2) under the agency heading relating to TRICARE Management Agency—

(A) in the item relating to Fort Wainwright, Alaska, by striking "$133,000,000" in the amount column and inserting "$215,000,000"; and

(B) by striking the item relating to Naval Air Station, Whidbey Island, Washington; and

(3) by striking the amount identified as the total in the amount column and inserting "$711,950,000".

(b) TREATMENT OF AUTHORIZATION OF APPROPRIATIONS FOR CANCELED WHIDBEY ISLAND PROJECT.—Of the amount authorized to be appropriated by section 2405(a) of that Act (113 Stat. 837), and paragraph (1) of that section, $4,700,000 shall be available for purposes relating to construction of the Portsmouth Naval Hospital, Virginia, as authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640).

(c) CONFORMING AMENDMENTS.—Section 2405(b) of that Act (113 Stat. 839) is amended—

(1) in paragraph (2), by striking "$115,000,000" and inserting "$197,000,000"; and

(2) in paragraph (3), by striking "$184,000,000" and inserting "$231,230,000".

**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) is amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Aberdeen Proving Ground, Maryland, by striking "$186,350,000" in the amount column and inserting "$223,950,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$727,616,000".

(b) CONFORMING AMENDMENT.—Section 2404(b)(3) of that Act (112 Stat. 2196) is amended by striking "$158,000,000" and inserting "$195,600,000".

**SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1995 PROJECT.**

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), and section 2406 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2197), is amended under the agency heading relating to Chemical Agents and Munitions Destruction, in the item relating to Pine Bluff Arsenal, Arkansas, by striking "$154,400,000" in the amount column and inserting "$177,400,000".

**SEC. 2408. PROHIBITION ON EXPENDITURES TO DEVELOP FORWARD OPERATING LOCATION ON ARUBA.**

None of the funds appropriated under the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" in chapter 3 of title III of the Emergency Supplemental Act, 2000 (Public Law 106–246; 114 Stat. 579), may be used by the Secretary of Defense to develop any forward operating location on the island of Aruba.

# TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

**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, 2001, 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 $162,600,000.

# TITLE XXVI—GUARD AND RESERVE FACILITIES

Sec. 2601. Authorized guard and reserve construction and land acquisition projects.

**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, 2001, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, 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, $393,253,000; and

(B) for the Army Reserve, $168,969,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $52,896,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $253,852,000; and

(B) for the Air Force Reserve, $73,032,000.

# 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 1999 projects.
Sec. 2703. Extension of authorizations of certain fiscal year 1998 projects.
Sec. 2704. Effective date.

**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, 2004; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005.

(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, 2004; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2005 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

**SEC. 2702. 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 tables in subsection (b), as provided in section 2302 or 2601 of that Act, shall remain in effect until October 1, 2002, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2003, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are 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) | $8,998,000 |
| 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 |

**Army National Guard: Extension of 1999 Project Authorizations**

| State | Installation or location | Project | Amount |
|---|---|---|---|
| Massachusetts | Westfield | Army Aviation Support Facility | $9,274,000 |
| South Carolina | Spartanburg | Readiness Center | $5,260,000 |

**SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1998 PROJECTS.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1984), authorizations set forth in the tables in subsection (b), as provided in section 2102, 2202, or 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–408), shall remain in effect until October 1, 2002, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2003, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

**Army: Extension of 1998 Project Authorization**

| State | Installation or location | Project | Amount |
|---|---|---|---|
| Maryland | Fort Meade | Family Housing Construction (56 units) | $7,900,000 |

**Navy: Extension of 1998 Project Authorizations**

| State | Installation or location | Project | Amount |
|---|---|---|---|
| California | Naval Complex, San Diego | Replace Family Housing (94 units) | $13,500,000 |
| California | Marine Corps Air Station, Miramar | Family Housing Construction (166 units) | $28,881,000 |
| Louisiana | Naval Complex, New Orleans | Replace Family Housing (100 units) | $11,930,000 |
| Texas | Naval Air Station, Corpus Christi | Family Housing Construction (212 units) | $22,250,000 |

**Air Force: Extension of 1998 Project Authorization**

| State | Installation or location | Project | Amount |
|---|---|---|---|
| New Mexico | Kirtland Air Force Base | Replace Family Housing (180 units) | $20,900,000 |

**SEC. 2704. EFFECTIVE DATE.**

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 2001; 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. Increase in thresholds for certain unspecified minor military construction projects.
Sec. 2802. Exclusion of unforeseen environmental hazard remediation from limitation on authorized cost variations.
Sec. 2803. Repeal of annual reporting requirement on military construction and military family housing activities.
Sec. 2804. Funds for housing allowances of members assigned to military family housing under alternative authority for acquisition and improvement of military housing.
Sec. 2805. Extension of alternative authority for acquisition and improvement of military housing.
Sec. 2806. Treatment of financing costs as allowable expenses under contracts for utility services from utility systems conveyed under privatization initiative.

**Subtitle B—Real Property and Facilities Administration**

Sec. 2811. Use of military installations for certain recreational activities.
Sec. 2812. Availability of proceeds of sales of Department of Defense property from certain closed military installations.
Sec. 2813. Pilot program to provide additional tools for efficient operation of military installations.
Sec. 2814. Demonstration program on reduction in long-term facility maintenance costs.

Sec. 2815. Base efficiency project at Brooks Air Force Base, Texas.

**Subtitle C—Implementation of Prior Base Closure and Realignment Rounds**

Sec. 2821. Lease back of base closure property.

**Subtitle D—Land Conveyances**

PART I—ARMY CONVEYANCES

Sec. 2831. Land conveyance, Whittier-Anchorage Pipeline Tank Farm, Anchorage, Alaska.
Sec. 2832. Lease authority, Fort DeRussy, Hawaii.
Sec. 2833. Modification of land exchange, Rock Island Arsenal, Illinois.
Sec. 2834. Land conveyance, Fort Des Moines, Iowa.
Sec. 2835. Modification of land conveyances, Fort Dix, New Jersey.
Sec. 2836. Land conveyance, Engineer Proving Ground, Fort Belvoir, Virginia.
Sec. 2837. Land exchange and consolidation, Fort Lewis, Washington.
Sec. 2838. Land conveyance, Army Reserve Center, Kewaunee, Wisconsin.

PART II—NAVY CONVEYANCES

Sec. 2841. Transfer of jurisdiction, Centerville Beach Naval Station, Humboldt County, California.
Sec. 2842. Land conveyance, Port of Long Beach, California.
Sec. 2843. Conveyance of pier, Naval Base, San Diego, California.
Sec. 2844. Modification of authority for conveyance of Naval Computer and Telecommunications Station, Cutler, Maine.
Sec. 2845. Land transfer and conveyance, Naval Security Group Activity, Winter Harbor, Maine.
Sec. 2846. Land acquisition, Perquimans County, North Carolina.
Sec. 2847. Land conveyance, Naval Weapons Industrial Reserve Plant, Toledo, Ohio.
Sec. 2848. Modification of land conveyance, former United States Marine Corps Air Station, Eagle Mountain Lake, Texas.

PART III—AIR FORCE CONVEYANCES

Sec. 2851. Conveyance of avigation easements, former Norton Air Force Base, California.
Sec. 2852. Reexamination of land conveyance, Lowry Air Force Base, Colorado.
Sec. 2853. Water rights conveyance, Andersen Air Force Base, Guam.
Sec. 2854. Conveyance of segment of Loring petroleum pipeline, Maine, and related easements.
Sec. 2855. Land conveyance, petroleum terminal serving former Loring Air Force Base and Bangor Air National Guard Base, Maine.
Sec. 2856. Land conveyances, certain former Minuteman III ICBM facilities in North Dakota.
Sec. 2857. Land conveyances, Charleston Air Force Base, South Carolina.
Sec. 2858. Transfer of jurisdiction, Mukilteo Tank Farm, Everett, Washington.

**Subtitle E—Other Matters**

Sec. 2861. Management of the Presidio of San Francisco.
Sec. 2862. Transfer of jurisdiction for development of Air Force morale, welfare, and recreation facility, Park City, Utah.
Sec. 2863. Alternate site for United States Air Force Memorial, preservation of open space on Arlington Ridge tract, and related land transfer at Arlington National Cemetery, Virginia.
Sec. 2864. Establishment of memorial to victims of terrorist attack on Pentagon Reservation and authority to accept monetary contributions for memorial and repair of Pentagon.
Sec. 2865. Repeal of limitation on cost of renovation of Pentagon Reservation.
Sec. 2866. Development of United States Army Heritage and Education Center at Carlisle Barracks, Pennsylvania.
Sec. 2867. Effect of limitation on construction of roads or highways, Marine Corps Base, Camp Pendleton, California.
Sec. 2868. Establishment of World War II memorial at additional location on Guam.
Sec. 2869. Demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies.
Sec. 2870. Report on future land needs of United States Military Academy, New York, and adjacent community.
Sec. 2871. Naming of Patricia C. Lamar Army National Guard Readiness Center, Oxford, Mississippi.

# Subtitle A—Military Construction Program and Military Family Housing Changes

**SEC. 2801. INCREASE IN THRESHOLDS FOR CERTAIN UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.**

(a) PROJECTS REQUIRING ADVANCE APPROVAL OF SECRETARY CONCERNED.—Subsection (b)(1) of section 2805 of title 10, United States Code, is amended by striking "$500,000" and inserting "$750,000".

(b) PROJECTS USING AMOUNTS FOR OPERATION AND MAINTENANCE.—Subsection (c)(1) of that section is amended—

(1) in subparagraph (A), by striking "$1,000,000" and inserting "$1,500,000"; and

(2) in subparagraph (B), by striking "$500,000" and inserting "$750,000".

**SEC. 2802. EXCLUSION OF UNFORESEEN ENVIRONMENTAL HAZARD REMEDIATION FROM LIMITATION ON AUTHORIZED COST VARIATIONS.**

Subsection (d) of section 2853 of title 10, United States Code, is amended to read as follows:

"(d) The limitation on cost increases in subsection (a) does not apply to the following:

"(1) The settlement of a contractor claim under a contract.

"(2) The costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.".

**SEC. 2803. REPEAL OF ANNUAL REPORTING REQUIREMENT ON MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING ACTIVITIES.**

(a) REPEAL.—Section 2861 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2861.

**SEC. 2804. FUNDS FOR HOUSING ALLOWANCES OF MEMBERS ASSIGNED TO MILITARY FAMILY HOUSING UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.**

(a) IN GENERAL.—Subchapter IV of chapter 169 of title 10, United States Code, is amended by inserting after section 2883 the following new section:

**"§ 2883a. Funds for housing allowances of members of the armed forces assigned to certain military family housing units**

"(a) AUTHORITY TO TRANSFER FUNDS TO COVER HOUSING ALLOWANCES.—During the fiscal year in which a contract is awarded for the acquisition or construction of military family

housing units under this subchapter that are not to be owned by the United States, the Secretary of Defense may transfer the amount determined under subsection (b) with respect to such housing from appropriations available for support of military housing for the armed force concerned for that fiscal year to appropriations available for pay and allowances of military personnel of that same armed force for that same fiscal year.

"(b) AMOUNT TRANSFERRED.—The total amount authorized to be transferred under subsection (a) in connection with a contract under this subchapter may not exceed an amount equal to any additional amounts payable during the fiscal year in which the contract is awarded to members of the armed forces assigned to the acquired or constructed housing units as basic allowance for housing under section 403 of title 37 that would not otherwise have been payable to such members if not for assignment to such housing units.

"(c) TRANSFERS SUBJECT TO APPROPRIATIONS.—The transfer of funds under the authority of subsection (a) is limited to such amounts as may be provided in advance in appropriations Acts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that subchapter is amended by inserting after the item relating to section 2883 the following new item:

"2883a. Funds for housing allowances of members of the armed forces assigned to certain military family housing units.".

**SEC. 2805. EXTENSION OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.**

Section 2885 of title 10, United States Code, is amended by striking "2004" and inserting "2012".

**SEC. 2806. TREATMENT OF FINANCING COSTS AS ALLOWABLE EXPENSES UNDER CONTRACTS FOR UTILITY SERVICES FROM UTILITY SYSTEMS CONVEYED UNDER PRIVATIZATION INITIATIVE.**

(a) EVALUATION OF FEDERAL ACQUISITION REGULATION.—The Secretary of Defense shall conduct an evaluation of the Federal Acquisition Regulation to determine whether or not it is advisable to modify the Federal Acquisition Regulation to provide that a contract for utility services from a utility system conveyed under section 2688(a) of title 10, United States Code, may include terms and conditions that recognize financing costs, such as return on equity and interest on debt, as an allowable expense when incurred by the conveyee of the utility system to acquire, operate, renovate, replace, upgrade, repair, or expand the utility system. The Secretary shall complete the evaluation not later than 90 days after the date of the enactment of this Act.

(b) SUBMISSION OF RECOMMENDATION TO FEDERAL ACQUISITION REGULATORY COUNCIL.—If the Secretary determines under subsection (a) that it is advisable to modify the Federal Acquisition Regulation to provide that a contract described in such subsection may include terms and conditions described in such subsection, the Secretary shall submit the results of the evaluation to the Federal Acquisition Regulatory Council together with a recommendation regarding the amendments to the Federal Acquisition Regulation necessary to effectuate the modification.

# Subtitle B—Real Property and Facilities Administration

**SEC. 2811. USE OF MILITARY INSTALLATIONS FOR CERTAIN RECREATIONAL ACTIVITIES.**

(a) WAIVER AUTHORITY.—Section 2671 of title 10, United States Code, is amended—

(1) in subsection (b), by striking "(b)" and inserting "(e) REGULATIONS.—" and transferring the subsection to the end of the section; and

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

"(b) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive or otherwise modify the fish and game laws of a State or Territory otherwise applicable under subsection (a)(1) to hunting, fishing, or trapping at a military installation or facility if the Secretary determines that the application of such laws to such hunting, fishing, or trapping without modification could result in undesirable consequences for public health or safety at the installation or facility. The authority to waive such laws includes the authority to extend, but not reduce, the specified season for certain hunting, fishing, or trapping. The Secretary may not waive the requirements under subsection (a)(2) regarding a license for such hunting, fishing, or trapping or any fee imposed by a State or Territory to obtain such a license.

"(2) If the Secretary determines that a waiver of fish and game laws of a State or Territory is appropriate under paragraph (1), the Secretary shall provide written notification to the appropriate State or Territory officials stating the reasons for, and extent of, the waiver. The notification shall be provided at least 30 days before implementation of the waiver.".

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "GENERAL REQUIREMENTS FOR HUNTING, FISHING, AND TRAPPING.—" after "(a)";

(2) in subsection (c), by inserting "VIOLATIONS.—" after "(c)"; and

(3) in subsection (d), by inserting "RELATION TO TREATY RIGHTS.—" after "(d)".

**SEC. 2812. AVAILABILITY OF PROCEEDS OF SALES OF DEPARTMENT OF DEFENSE PROPERTY FROM CERTAIN CLOSED MILITARY INSTALLATIONS.**

(a) MODIFICATION OF AVAILABILITY PERCENTAGES.—Subsection (h)(2) of section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) In the case of property located at a military installation that is closed, such amount shall be available for facility maintenance and repair or environmental restoration by the military department that had jurisdiction over such property before the closure of the military installation.

"(B) In the case of property located at any other military installation—

"(i) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where such property was located before it was disposed of or transferred; and

"(ii) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department that had jurisdiction over such property before it was disposed of or transferred.".

(b) RELATION TO OTHER LAWS.—Subsection (h) of such section is further amended—

(1) in paragraph (1), by inserting "pursuant to a base closure law" after "realignment" in the first sentence; and

(2) in paragraph (5), by inserting before the period at the end the following: ", and the term 'base closure law' shall have the meaning given that term in section 2667(h)(2) of such title".

**SEC. 2813. PILOT PROGRAM TO PROVIDE ADDITIONAL TOOLS FOR EFFICIENT OPERATION OF MILITARY INSTALLATIONS.**

(a) INITIATIVE AUTHORIZED.—The Secretary of Defense may carry out a pilot program (to be known as the "Pilot Efficient Facilities Initiative") for purposes of determining the potential for increasing the efficiency and effectiveness of the operation of military installations.

(b) DESIGNATION OF PARTICIPATING MILITARY INSTALLATIONS.—(1) The Secretary of Defense may designate up to two military installations of each military department for participation in the Initiative.

(2) Before designating a military installation under paragraph (1), the Secretary shall consult with employees at the installation and communities in the vicinity of the installation regarding the Initiative.

(3) The Secretary shall transmit to Congress written notification of the designation of a military installation to participate in the Initiative not later than 30 days before taking any action to carry out the Initiative at the installation. The notification shall include a description of the steps taken by the Secretary to comply with paragraph (2).

(c) MANAGEMENT PLAN.—(1) As part of the notification required under subsection (b), the Secretary of Defense shall submit a management plan for the Initiative at the military installation designated in the notification.

(2) The management plan for a designated military installation shall include a description of—

(A) each proposed lease of real or personal property located at the military installation;

(B) each proposed disposal of real or personal property located at the installation;

(C) each proposed leaseback of real or personal property leased or disposed of at the installation;

(D) each proposed conversion of services at the installation from Federal Government performance to non-Federal Government performance, including performance by contract with a State or local government or private entity or performance as consideration for the lease or disposal of property at the installation; and

(E) each other action proposed to be taken to improve mission effectiveness and reduce the cost of providing quality installation support at the installation.

(3) With respect to each proposed action described under paragraph (2), the management plan shall include—

(A) an estimate of the savings expected to be achieved as a result of the action;

(B) each regulation not required by statute that is proposed to be waived to implement the action; and

(C) each statute or regulation required by statute that is proposed to be waived to implement the action, including—

(i) an explanation of the reasons for the proposed waiver; and

(ii) a description of the action to be taken to protect the public interests served by the statute or regulation, as the case may be, in the event of the waiver.

(4) The management plan shall include measurable criteria for the evaluation of the effects of the actions taken pursuant to the Initiative at the designated military installation.

(d) WAIVER OF STATUTORY REQUIREMENTS.—The Secretary of Defense may waive any statute, or regulation required by statute, for purposes of carrying out the Initiative only if specific authority for the waiver of such statute or regulation is provided in a law that is enacted after the date of the enactment of this Act.

(e) INSTALLATION EFFICIENCY INITIATIVE FUND.—(1) There is established on the books of the Treasury a fund to be known as the "Installation Efficiency Initiative Fund".

(2) There shall be deposited in the Fund all cash rents, payments, reimbursements, proceeds, and other amounts from leases, sales, or other conveyances or transfers, joint activities, and other actions taken under the Initiative.

(3) To the extent provided in advance in authorization Acts and appropriations Acts, amounts in the Fund shall be available to the Secretary of Defense for purposes of managing capital assets and providing support services at military installations participating in the Initiative. Amounts in the Fund may be used for such purposes in addition to, or in combination with, other amounts authorized to be appropriated for such purposes. Amounts in the Fund shall be available for such purposes for five years.

(4) Subject to applicable financial management regulations, the Secretary shall structure the Fund, and provide administrative policies and procedures, in order to provide proper control of deposits in and disbursements from the Fund.

(f) REPORT.—Not later than December 31, 2004, the Secretary of Defense shall submit to Congress a report on the Initiative. The report shall contain a description of the actions taken under the Initiative and include such other information, including recommendations, as the Secretary considers appropriate regarding the Initiative.

(g) DEFINITIONS.—In this section:

(1) The term "Initiative" means the Pilot Efficient Facilities Initiative.

(2) The term "Fund" means the Installation Efficiency Initiative Fund.

(3) The term "military installation" has the meaning given such term in section 2687(e) of title 10, United States Code.

(h) TERMINATION.—The authority of the Secretary of Defense to carry out the Initiative shall terminate December 31, 2005.

**SEC. 2814. DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.**

(a) AUTHORITY TO CARRY OUT PROGRAM.—The Secretary of the Army 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 three contracts entered into in any year may contain requirements referred to in subsection (a) for the purpose of the demonstration program. 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 may not exceed five years.

(d) REPORTING REQUIREMENTS.—Not later than January 31, 2005, the Secretary of the Army shall submit to Congress a report on the demonstration program, including the following:

(1) A description of all contracts that contain requirements referred to in subsection (a) for the purpose of the demonstration program.

(2) An evaluation of the demonstration program and a description of the experience of the Secretary with respect to such contracts.

(3) Any recommendations, including recommendations for the termination, continuation, or expansion of the demonstration program, that the Secretary considers appropriate.

(e) EXPIRATION.—The authority under subsection (a) to include requirements referred to in that subsection in contracts under the demonstration program shall expire on September 30, 2006.

(f) FUNDING.—Amounts authorized to be appropriated for the Army for a fiscal year for military construction shall be available for the demonstration program under this section in such fiscal year.

**SEC. 2815. BASE EFFICIENCY PROJECT AT BROOKS AIR FORCE BASE, TEXAS.**

(a) ADMINISTRATION OF PROJECT.—Section 136(m)(9) of the Military Construction Appropriations Act, 2001 (division A of Public Law 106–246; 114 Stat. 524), is amended by striking ", who shall be a civilian official of the Department appointed by the President with the advice and consent of the Senate".

(b) INDEMNIFICATION OF TRANSFEREES.—Not later than March 1, 2002, the Secretary of Defense shall submit to Congress a report evaluating the base efficiency project conducted under section 136 of the Military Construction Appropriations Act, 2001 (division A of Public Law 106–246; 114 Stat. 520). The evaluation shall address whether the disposal of real property under subsection (e) or other provisions of that section requires any additional authority for the Secretary beyond the authority provided under existing law to hold harmless, defend, and indemnify the recipients of the property against claims arising out of Department of Defense activities

on the property before disposal. If the Secretary determines that inclusion of such an indemnity provision would facilitate activities under the base efficiency project, the Secretary shall include a recommendation in the report regarding the nature and extent of the indemnification to be provided.

# Subtitle C—Implementation of Prior Base Closure and Realignment Rounds

**SEC. 2821. LEASE BACK OF BASE CLOSURE PROPERTY.**

(a) 1988 LAW.—Section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (E), (F), (G), (H), and (I) as subparagraphs (F), (G), (H), (I), and (J), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph (E):

"(E)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this title (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

"(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

"(iii) A lease under clause (i) may not require rental payments by the United States.

"(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

"(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—

"(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or

"(II) firefighting or security-guard functions.".

(b) 1990 LAW.—Section 2905(b)(4)(E) 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 adding at the end the following new clause:

"(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property. Facility services and common area maintenance covered by the lease shall not include—

"(I) municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge; or

"(II) firefighting or security-guard functions.".

# Subtitle D—Land Conveyances

## PART I—ARMY CONVEYANCES

### SEC. 2831. LAND CONVEYANCE, WHITTIER-ANCHORAGE PIPELINE TANK FARM, ANCHORAGE, ALASKA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Port of Anchorage, an entity of the Municipality of Anchorage, Alaska (in this section referred to as the "Port"), all right, title, and interest of the United States in and to two adjoining parcels of real property, including any improvements thereon, consisting of approximately 48 acres in Anchorage, Alaska, which are known as the Whittier-Anchorage Pipeline Tank Farm, for the purpose of permitting the Port to use the parcels for economic development.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Port shall pay to the United States an amount, in cash or in-kind, equal to not less than the fair market value of the conveyed property, as determined by the Secretary. The Secretary may authorize the Port to carry out, as in-kind consideration, environmental remediation activities for the property to be conveyed.

(c) TIME FOR CONVEYANCE.—The Secretary may delay the conveyance under subsection (a) until such time as the Army studies relating to the Alaska deployment of the Interim Brigade Combat Team in Alaska are completed.

(d) 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 Port.

(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.

### SEC. 2832. LEASE AUTHORITY, FORT DERUSSY, HAWAII.

(a) LEASE AUTHORIZED.—Notwithstanding section 809 of the Military Construction Authorization Act, 1968 (Public Law 90–

110; 81 Stat. 309), and section 2814(b) of the Military Construction Authorization Act, 1989 (Public Law 100–456; 102 Stat. 2117), the Secretary of the Army may enter into a lease with the City and County of Honolulu, Hawaii, for the purpose of making available to the City and County a parcel of real property at Fort DeRussy, Hawaii, for the construction and operation of a parking facility. The size and location of the parcel shall be determined by the Secretary.

(b) TERMS AND CONDITIONS.—The lease under subsection (a) may be for such term of years, require such consideration, and contain such other terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(c) RELATIONSHIP TO OTHER LEASE AUTHORITY.—Section 2667 of title 10, United States Code, shall not apply to the lease under subsection (a).

(d) DISPOSITION OF MONEY RENTALS.—All money rentals received pursuant to the lease under subsection (a) shall be—

(1) retained by the Secretary;

(2) credited to an appropriation account that supports the operation and maintenance of Fort DeRussy; and

(3) available for such purpose until expended.

**SEC. 2833. MODIFICATION OF LAND EXCHANGE, ROCK ISLAND ARSENAL, ILLINOIS.**

(a) ADDITIONAL CONVEYANCE AUTHORIZED.—Subsection (a) of section 2832 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 857) is amended—

(1) by inserting "(1)" after "CONVEYANCE AUTHORIZED.—"; and

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

"(2) The Secretary may convey to the City all right, title, and interest of the United States in and to an additional parcel of real property, including improvements thereon, at the Rock Island Arsenal consisting of approximately .513 acres.".

(b) CONSIDERATION.—Subsection (b) of such section is amended—

(1) by inserting "(1)" after "CONSIDERATION.—";

(2) by striking "subsection (a)" both places it appears and inserting "subsection (a)(1)"; and

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

"(2) As consideration for the conveyance under subsection (a)(2), the City shall convey to the Secretary all right, title, and interest of the City in and to a parcel of real property consisting of approximately .063 acres and construct on the parcel, at the City's expense, a new access ramp to the Rock Island Arsenal.".

**SEC. 2834. LAND CONVEYANCE, FORT DES MOINES, IOWA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Fort Des Moines Memorial Park, Inc., a nonprofit organization (in this section referred to as the "Memorial Park"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 4.6 acres located at Fort Des Moines United States Army Reserve Center, Des Moines, Iowa, for the purpose of the establishment of the Fort Des Moines Memorial Park and Education Center.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the Memorial Park use the property for museum and park purposes.

(c) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used for museum and park purposes, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Memorial Park shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Memorial Park. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received under this subsection.

(e) 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 Memorial Park.

(f) 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. 2835. MODIFICATION OF LAND CONVEYANCES, FORT DIX, NEW JERSEY.**

Section 2835(c) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2004) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1) or (2), the Borough and Board may exchange between each other, without the consent of the Secretary, all or any portion of the property conveyed under subsection (a) so long as the property continues to be used by the grantees for economic development or educational purposes.".

**SEC. 2836. LAND CONVEYANCE, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Commonwealth of Virginia (in this section referred to as the "Commonwealth") all right, title, and interest of United States in and to two parcels of real property, including any improvements thereon, located at the Engineer Proving Ground, Fort Belvoir, Virginia, as follows:

(1) The parcel, consisting of approximately 170 acres, that is to be used for construction of a portion of the Fairfax County Parkway.

(2) The parcel, consisting of approximately 11.45 acres, that is subject to an easement previously granted to the Commonwealth as Army easement DACA 31–3–96–440 for the construction of a portion of Interstate Highway 95.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Commonwealth shall—

(1) design and construct, at its expense and for public benefit, the portion of the Fairfax County Parkway through the Engineer Proving Ground;

(2) provide a conceptual design for eventual incorporation and construction by others of access into the Engineer Proving Ground at the Rolling Road Interchange from Fairfax County Parkway as specified in Virginia Department of Transportation Project #R000–029–249, C514;

(3) provide such easements or rights of way for utilities under or across the Fairfax County Parkway as the Secretary considers appropriate for the optimum development of the Engineer Proving Ground; and

(4) pay the United States an amount, jointly determined by the Secretary and the Commonwealth, appropriate to cover the costs of constructing a replacement building for building 5089 located on the Engineer Proving Ground.

(c) RESPONSIBILITY FOR ENVIRONMENTAL CLEANUP.—The Secretary shall retain liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and any other applicable environmental statute or regulation, for any environmental hazard on the property conveyed under subsection (a) as of the date of the conveyance under that subsection.

(d) ACCEPTANCE AND DISPOSITION OF FUNDS.—(1) The Secretary of the Army may accept the funds paid by the Commonwealth as consideration under subsection (b)(4) and shall credit the accepted funds to the appropriation or appropriations that are appropriate for paying the costs of the replacement of Building 5089, located on the Engineer Proving Ground, Fort Belvoir, Virginia, consistent with paragraphs (2) and (3) of this subsection.

(2) Funds accepted under paragraph (1) shall be available, until expended, for the replacement of Building 5089.

(3) Funds appropriated pursuant to the authorization of appropriations in section 301(a)(1), and funds appropriated pursuant to the authorization of appropriations in section 2104(a)(4), shall be available in accordance with section 2805 of title 10, United States Code, for the excess, if any, of the cost of the replacement of Building 5089 over the amount available for such project under paragraph (2).

(e) DESCRIPTION OF PROPERTY.—(1) The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Commonwealth.

(2) The exact acreage and legal description of the real property to be conveyed under subsection (a)(2) are as set forth in Army easement DACA 31–3–96–440.

(f) 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. 2837. LAND EXCHANGE AND CONSOLIDATION, FORT LEWIS, WASHINGTON.**

(a) EXCHANGE AUTHORIZED.—(1) The Secretary of the Army may convey to the Nisqually Tribe, a federally recognized Indian tribe whose tribal lands are located within the State of Washington, all right, title, and interest of the United States in and to two

parcels of real property, including any improvements thereon, consisting of approximately 138 acres at Fort Lewis, Washington, in exchange for the real property described in subsection (b).

(2) The property authorized for conveyance under paragraph (1) does not include Bonneville Power Administration transmission facilities or the right of way described in subsection (c).

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Nisqually Tribe shall—

(1) acquire from Thurston County, Washington, several parcels of real property consisting of approximately 416 acres that are owned by the county, are located within the boundaries of Fort Lewis, and are currently leased by the Army; and

(2) convey fee title over the acquired property to the Secretary.

(c) RIGHT-OF-WAY FOR BONNEVILLE POWER ADMINISTRATION.—The Secretary may use the authority provided in section 2668 of title 10, United States Code, to convey to the Bonneville Power Administration a right-of-way that authorizes the Bonneville Power Administration to use real property at Fort Lewis as a route for the Grand Coulee-Olympia and Olympia-White River electric transmission lines and appurtenances for the purpose of facilitating the removal of such transmission lines from tribal lands of the Nisqually Tribe.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) and acquired under subsection (b) shall be determined by surveys satisfactory to the Secretary and the Nisqually Tribe. The cost of a survey shall be borne by the recipient of the property being surveyed.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2838. LAND CONVEYANCE, ARMY RESERVE CENTER, KEWAUNEE, WISCONSIN.**

(a) CONVEYANCE AUTHORIZED.—The Administrator of General Services may convey, without consideration, to the City of Kewaunee, Wisconsin (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of Federal real property, including improvements thereon, that is located at 401 5th Street in Kewaunee, Wisconsin, and contains a surplus Army Reserve Center. After such conveyance, the property may be used and occupied only by the City or by another local or State government entity approved by the City.

(b) REVERSIONARY INTEREST.—(1) During the 20-year period beginning on the date the Administrator makes the conveyance under subsection (a), if the Administrator determines that the conveyed property is not being used and occupied in accordance with such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States.

(2) Upon reversion, the Administrator shall immediately proceed to a public sale of the property. The Administrator shall deposit the net proceeds from the public sale in the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C 460l–5).

(c) ADDITIONAL LIMITATION ON USE.—The property conveyed under subsection (a) shall not be used for commercial purposes.

(d) 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 Administrator. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

## PART II—NAVY CONVEYANCES

### SEC. 2841. TRANSFER OF JURISDICTION, CENTERVILLE BEACH NAVAL STATION, HUMBOLDT COUNTY, CALIFORNIA.

(a) TRANSFER AUTHORIZED.—The Secretary of the Navy may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior the real property, including any improvements thereon, consisting of the closed Centerville Beach Naval Station in Humboldt County, California, for the purpose of permitting the Secretary of the Interior to manage the real property as open space or for other public purposes.

(b) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of the survey shall be borne by the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the transfer under subsection (a) as the Secretary of the Navy considers appropriate to protect the interests of the United States.

### SEC. 2842. LAND CONVEYANCE, PORT OF LONG BEACH, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Long Beach, California, acting by and through its Board of Harbor Commissioners (in this section referred to as the "City"), all right, title, and interest of the United States in and to up to 11.08 acres of real property, including any improvements thereon, comprising a portion of the Navy Mole at the former Long Beach Naval Complex, Long Beach, California, for the purpose of permitting the City to use the property to support the reuse of other former Navy property conveyed to the City.

(b) CONSIDERATION.—(1) Subject to paragraph (2), as consideration for the conveyance under subsection (a), the City shall—

(A) convey to the Secretary all right, title, and interest of the City in and to a parcel of real property of equal size on the Mole that is acceptable to the Secretary; and

(B) construct on the property conveyed under subparagraph (A) suitable replacement fuel transfer and storage facilities for the Navy, similar or equivalent to the facilities on the property to be conveyed under subsection (a), as determined necessary by the Secretary.

(2) If the Secretary determines that replacement fuel transfer and storage facilities are not required by the Navy, the Secretary may make the conveyance under subsection (a) at no cost to the City.

(c) TIME FOR CONVEYANCE.—Unless the Secretary makes the determination referred to in subsection (b)(2), the conveyance to the City authorized by subsection (a) shall be made only after the Secretary determines that the replacement fuel transfer and storage facilities have been constructed and are ready for use.

(d) CONSTRUCTION SCHEDULE.—The City shall construct the replacement fuel transfer and storage facilities pursuant to such schedule and in such a manner so as to not interrupt or otherwise adversely affect the capability of the Navy to accomplish its mission.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The City shall be responsible for conducting the surveys.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2843. CONVEYANCE OF PIER, NAVAL BASE, SAN DIEGO, CALIFORNIA.**

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Navy may convey, without consideration, to the San Diego Aircraft Carrier Museum or its designee (in this section referred to as the "Museum") all right, title, and interest of the United States in and to the property known as Pier 11A at Naval Base, San Diego, California, together with associated structures and interests in the land underlying the pier, if any, for the purpose of permitting the Museum to use the property to berth a vessel and operate a museum for the general public.

(2) The Secretary may not make the conveyance until such time as the Museum certifies that the Museum has acquired an interest in property from the State of California or a political subdivision of the State to facilitate the use of the conveyed pier to berth a vessel and operate a museum for the general public.

(b) ASSUMPTION OF LIABILITY.—The Museum shall expressly accept any and all liability pertaining to the physical condition of the property conveyed under subsection (a) and shall hold the United States harmless from any and all liability arising from the property's physical condition.

(c) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Museum shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Museum. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the 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 Museum.

(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.

**SEC. 2844. MODIFICATION OF AUTHORITY FOR CONVEYANCE OF NAVAL COMPUTER AND TELECOMMUNICATIONS STATION, CUTLER, MAINE.**

Section 2853(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–430) is amended by inserting "any or" before "all right".

**SEC. 2845. LAND TRANSFER AND CONVEYANCE, NAVAL SECURITY GROUP ACTIVITY, WINTER HARBOR, MAINE.**

(a) TRANSFER OF JURISDICTION OF SCHOODIC POINT PROPERTY AUTHORIZED.—(1) The Secretary of the Navy may transfer to the Secretary of the Interior administrative jurisdiction of a parcel of real property, including any improvements thereon and appurtenances thereto, consisting of approximately 26 acres as generally depicted as Tract 15–116 on the map entitled "Acadia National Park Schoodic Point Area", numbered 123/80,418 and dated May 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(2) The transfer authorized by this subsection shall occur, if at all, concurrently with the reversion of administrative jurisdiction of a parcel of real property consisting of approximately 71 acres, as depicted as Tract 15–115 on the map referred to in paragraph (1), from the Secretary of the Navy to the Secretary of the Interior as authorized by Public Law 80–260 (61 Stat. 519) and to be executed on or about June 30, 2002.

(b) CONVEYANCE OF COREA AND WINTER HARBOR PROPERTIES AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the State of Maine, any political subdivision of the State of Maine, or any tax-supported agency in the State of Maine, all right, title, and interest of the United States in and to any of the parcels of real property, including any improvements thereon and appurtenances thereto, consisting of approximately 485 acres and comprising the former facilities of the Naval Security Group Activity, Winter Harbor, Maine, located in Hancock County, Maine, less the real property described in subsection (a)(1), for the purpose of economic redevelopment.

(c) TRANSFER OF PERSONAL PROPERTY.—The Secretary of the Navy may transfer, without consideration, to the Secretary of the Interior in the case of the real property transferred under subsection (a), or to any recipient of such real property in the case of real property conveyed under subsection (b), any or all personal property associated with the real property so transferred or conveyed, including any personal property required to continue the maintenance of the infrastructure of such real property (including the generators for an uninterrupted power supply in building 154 at the Corea site).

(d) MAINTENANCE OF PROPERTY PENDING CONVEYANCE.—(1) The Secretary of the Navy shall maintain any real property, including any improvements thereon, appurtenances thereto, and supporting infrastructure, to be conveyed under subsection (b) in accordance with the protection and maintenance standards specified in section 101–47.4913 of title 41, Code of Federal Regulations, until the earlier of—

(A) the date of the conveyance of such real property under subsection (b); or

(B) September 30, 2003.

(2) The requirement in paragraph (1) shall not be construed as authority to improve the real property, improvements, and infrastructure referred to in that paragraph so as to bring such real property, improvements, or infrastructure into compliance with any zoning or property maintenance codes or to repair any damage to such improvements and infrastructure caused by natural accident or disaster.

(e) INTERIM LEASE.—(1) Until such time as any parcel of real property to be conveyed under subsection (b) is conveyed by deed under that subsection, the Secretary of the Navy may lease such parcel to any person or entity determined by the Secretary to be an appropriate lessee of such parcel.

(2) The amount of rent for a lease under paragraph (1) shall be the amount determined by the Secretary to be appropriate, and may be an amount less than the fair market value of the lease.

(f) REIMBURSEMENT FOR ENVIRONMENTAL AND OTHER ASSESSMENTS.—(1) The Secretary of the Navy may require each recipient of real property conveyed under subsection (b) to reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis carried out by the Secretary in connection with the conveyance of such property, if the excess costs were incurred as a result of a request by the recipient. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance to the recipient.

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property transferred under subsection (a), and each parcel of real property conveyed under subsection (b), shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of any survey for real property conveyed under subsection (b) shall be borne by the recipient of the real property.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with any conveyance under subsection (b), and any lease under subsection (e), as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2846. LAND ACQUISITION, PERQUIMANS COUNTY, NORTH CAROLINA.**

The Secretary of the Navy may, using funds previously appropriated for such purpose, acquire any and all right, title, and interest in and to a parcel of real property, including improvements thereon, consisting of approximately 240 acres, or any portion thereof, in Perquimans County, North Carolina, for purposes of including such parcel in the Harvey Point Defense Testing Activity, Hertford, North Carolina.

**SEC. 2847. LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, TOLEDO, OHIO.**

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Navy may convey, without consideration, to the Toledo-Lucas County Port Authority, Ohio (in this section referred to as the "Port Authority"), any or all right, title, and interest of the United States

in and to a parcel of real property, including any improvements thereon, consisting of approximately 29 acres and comprising the Naval Weapons Industrial Reserve Plant, Toledo, Ohio.

(2) The Secretary may include in the conveyance under paragraph (1) such facilities, equipment, fixtures, and other personal property located or based on the parcel conveyed under that paragraph, or used in connection with the parcel, as the Secretary determines to be excess to the Navy.

(b) LEASE AUTHORITY.—Until such time as the real property described in subsection (a)(1) is conveyed by deed, the Secretary may lease such real property, and any personal property described in subsection (a)(2), to the Port Authority in exchange for such security, fire protection, and maintenance services as the Secretary considers appropriate.

(c) CONDITIONS OF CONVEYANCE.—The conveyance under subsection (a), and any lease under subsection (b), shall be subject to the conditions that the Port Authority—

(1) accept the real and personal property concerned in their condition at the time of the conveyance or lease, as the case may be; and

(2) except as provided in subsection (d), use the real and personal property concerned, whether directly or through an agreement with a public or private entity, for economic development or such other public purposes as the Port Authority considers appropriate.

(d) SUBSEQUENT USE.—(1) Subject to the approval of the Secretary, the Port Authority may sublease real property or personal property covered by a lease under subsection (b) to another person for economic development or such other public purposes as the Port Authority considers appropriate.

(2) Following the conveyance of real property under subsection (a), the Port Authority may lease or reconvey the real property, and any personal property conveyed with such real property under that subsection, for economic development or such other public purposes as the Port Authority considers appropriate.

(e) REIMBURSEMENT FOR COSTS OF CONVEYANCE AND LEASE.—(1) The Port Authority shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Port Authority. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1), and an appropriate inventory or other description of the personal property to be conveyed under subsection (a)(2), shall be determined by a survey and other means satisfactory to the Secretary. The cost of the survey shall be borne by the Port Authority.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with

the conveyance under subsection (a)(1), and any lease under subsection (b), as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2848. MODIFICATION OF LAND CONVEYANCE, FORMER UNITED STATES MARINE CORPS AIR STATION, EAGLE MOUNTAIN LAKE, TEXAS.**

Section 5 of Public Law 85–258 (71 Stat. 583) is amended by inserting before the period at the end the following: "or for the protection, maintenance, and operation of other Texas National Guard facilities".

## PART III—AIR FORCE CONVEYANCES

**SEC. 2851. CONVEYANCE OF AVIGATION EASEMENTS, FORMER NORTON AIR FORCE BASE, CALIFORNIA.**

(a) CONVEYANCE REQUIRED.—The Administrator of General Services shall convey, without consideration, to the Inland Valley Development Agency (the redevelopment authority for former Norton Air Force Base, California) two avigation easements (identified as APN 289–231–08 and APN 289–232–08) held by the United States.

(b) CONDITION OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the condition that, if the recipient sells one or both of the easements conveyed under subsection (a), the recipient shall pay to the United States an amount equal to the lesser of—

(1) the sale price of the easement; or

(2) the fair market value of the easement.

(c) DURATION OF CONDITION.—The condition specified in subsection (b) shall apply only to a conveyance that occurs during the 10-year period beginning on the date the Administrator makes the conveyance required by subsection (a).

**SEC. 2852. REEXAMINATION OF LAND CONVEYANCE, LOWRY AIR FORCE BASE, COLORADO.**

The Secretary of the Air Force shall reevaluate the terms and conditions of the pending negotiated sale agreement with the Lowry Redevelopment Authority for certain real property at Lowry Air Force Base, Colorado, in light of changed circumstances regarding the property, including changes in the flood plain designations affecting some of the property, to determine whether the changed circumstances warrant a reduction in the amount of consideration otherwise required under the agreement or other modifications to the agreement.

**SEC. 2853. WATER RIGHTS CONVEYANCE, ANDERSEN AIR FORCE BASE, GUAM.**

(a) AUTHORITY TO CONVEY.—In conjunction with the conveyance of the water supply system for Andersen Air Force Base, Guam, under the authority of section 2688 of title 10, United States Code, and in accordance with all the requirements of that section, the Secretary of the Air Force may convey all right, title, and interest of the United States, or such lesser estate as the Secretary considers appropriate to serve the interests of the United States, in the water rights related to the following Air Force properties located on Guam:

(1) Andy South, also known as the Andersen Administrative Annex.

(2) Marianas Bonins Base Command.

(3) Andersen Water Supply Annex, also known as the Tumon Water Well or the Tumon Maui Well.

(b) ADDITIONAL REQUIREMENTS.—The Secretary may exercise the authority contained in subsection (a) only if the Secretary—

(1) determines that adequate supplies of potable groundwater exist under the main base and northwest field portions of Andersen Air Force Base to meet the current and long-term requirements of the installation for water;

(2) determines that such supplies of groundwater are economically obtainable; and

(3) requires the conveyee of the water rights under subsection (a) to provide a water system capable of meeting the water supply needs of the main base and northwest field portions of Andersen Air Force Base, as determined by the Secretary.

(c) INTERIM WATER SUPPLIES.—If the Secretary determines that it is in the best interests of the United States to transfer title to the water rights and utility systems at Andy South and Andersen Water Supply Annex before placing into service a replacement water system and well field on Andersen Air Force Base, the Secretary may require that the United States have the primary right to all water produced from Andy South and Andersen Water Supply Annex until the replacement water system and well field is placed into service and operates to the satisfaction of the Secretary. In exercising the authority provided by this subsection, the Secretary may retain a reversionary interest in the water rights and utility systems at Andy South and Andersen Water Supply Annex until such time as the replacement water system and well field is placed into service and operates to the satisfaction of the Secretary.

(d) SALE OF EXCESS WATER AUTHORIZED.—(1) As part of the conveyance of water rights under subsection (a), the Secretary may authorize the conveyee of the water system to sell to public or private entities such water from Andersen Air Force Base as the Secretary determines to be excess to the needs of the United States. In the event the Secretary authorizes the conveyee to resell water, the Secretary shall negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee, which return the Secretary may receive in the form of reduced charges for utility services provided by the conveyee.

(2) If the Secretary cannot meet the requirements of subsection (b), and the Secretary determines to proceed with a water utility system conveyance under section 2688 of title 10, United States Code, without the conveyance of water rights, the Secretary may provide in any such conveyance that the conveyee of the water system may sell to public or private entities such water from Andy South and Andersen Water Supply Annex as the Secretary determines to be excess to the needs of the United States. The Secretary shall negotiate a reasonable return to the United States of the value of such excess water sold by the conveyee, which return the Secretary may receive in the form of reduced charges for utility services provided by the conveyee.

(e) TREATMENT OF WATER RIGHTS.—For purposes of section 2688 of title 10, United States Code, the water rights referred

to in subsection (a) shall be considered as part of a utility system (as that term is defined in subsection (h)(2) of such section).

**SEC. 2854. CONVEYANCE OF SEGMENT OF LORING PETROLEUM PIPELINE, MAINE, AND RELATED EASEMENTS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Loring Development Authority, Maine (in this section referred to as the "Authority"), all right, title, and interest of the United States in and to the segment of the Loring Petroleum (POL) Pipeline, Maine, consisting of approximately 27 miles in length and running between the Searsport terminal and Bangor Air National Guard Base.

(b) RELATED EASEMENTS.—As part of the conveyance authorized by subsection (a), the Secretary may convey to the Authority, without consideration, all right, title, and interest of the United States in and to any easements or rights-of-way necessary for the operation or maintenance of the segment of pipeline conveyed under that subsection.

(c) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Authority shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Authority. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the segment of pipeline conveyed under subsection (a), and of any easements or rights-of-way conveyed under subsection (b), shall be determined by surveys and other means satisfactory to the Secretary. The cost of any survey or other services performed at the direction of the Secretary under the preceding sentence shall be borne by the Authority.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2855. LAND CONVEYANCE, PETROLEUM TERMINAL SERVING FORMER LORING AIR FORCE BASE AND BANGOR AIR NATIONAL GUARD BASE, MAINE.**

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Air Force may convey to the Maine Port Authority of the State of Maine (in this section referred to as the "Authority") all right, title, and interest of the United States in and to the Petroleum Terminal (POL) at Mack Point, Searsport, Maine, which served former Loring Air Force Base and Bangor Air National Guard Base, Maine.

(2) The conveyance under paragraph (1) may include the following:

(A) A parcel of real property, including any improvements thereon, consisting of approximately 20 acres and comprising a portion of the Petroleum Terminal.

(B) Any additional fuel tanks, other improvements, and equipment located on the 43-acre parcel of property adjacent to the property described in subparagraph (A), and leased by the Secretary as of the date of the enactment of this Act, which constitutes the remaining portion of the Petroleum Terminal.

(b) CONDITION OF CONVEYANCE.—The Secretary may not make the conveyance under subsection (a) unless the Authority agrees to utilize the property to be conveyed under that subsection solely for economic development purposes.

(c) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the Authority shall lease to the Secretary approximately one acre of the real property conveyed under that subsection, together with any improvements thereon, that constitutes the Aerospace Fuels Laboratory (also known as Building 14).

(2) The real property leased under this subsection shall include the parking lot, outbuildings, and other improvements associated with the Aerospace Fuels Laboratory and such easements of ingress and egress to the real property, including easements for utilities, as are required for the operations of the Aerospace Fuels Laboratory.

(3) As part of the lease of real property under this subsection, the Authority shall maintain around the real property for the term of the lease a zone, not less than 75 feet in depth, free of improvements or encumbrances.

(4) The lease under this subsection shall be without cost to the United States.

(5) The term of the lease under this subsection may not exceed 25 years. If operations at the Aerospace Fuels Laboratory cease before the expiration of the term of the lease otherwise provided for under this subsection, the lease shall be deemed to have expired upon the cessation of such operations.

(d) CONVEYANCE CONTINGENT ON EXPIRATION OF LEASE OF FUEL TANKS.—The Secretary may not make the conveyance under subsection (a) until the expiration of the lease referred to in paragraph (2)(B) of that subsection.

(e) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Authority shall reimburse the Secretary for the excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance authorized by this section, if the excess costs were incurred as a result of a request by the Authority. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance authorized by subsection (a).

(2) Section 2695(c) of title 10, United States Code, shall apply to any amount received by the Secretary under this subsection.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Authority.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a), and the lease under subsection

(c), as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2856. LAND CONVEYANCES, CERTAIN FORMER MINUTEMAN III ICBM FACILITIES IN NORTH DAKOTA.**

(a) CONVEYANCES AUTHORIZED.—(1) The Secretary of the Air Force may convey, without consideration, to the State Historical Society of North Dakota (in this section referred to as the "Historical Society") all right, title, and interest of the United States in and to parcels of real property, together with any improvements thereon, of the Minuteman III ICBM facilities of the former 321st Missile Group at Grand Forks Air Force Base, North Dakota, as follows:

(A) The parcel consisting of the launch facility designated "November–33".

(B) The parcel consisting of the missile alert facility and launch control center designated "Oscar-O".

(2) The purpose of the conveyance of the facilities is to provide for the establishment of an historical site allowing for the preservation, protection, and interpretation of the facilities.

(b) CONSULTATION.—The Secretary shall consult with the Secretary of State and the Secretary of Defense in order to ensure that the conveyances required by subsection (a) are carried out in accordance with applicable treaties.

(c) HISTORICAL SITE.—The Secretary may, in cooperation with the Historical Society, enter into one or more cooperative agreements with appropriate public or private entities or individuals in order to provide for the establishment and maintenance of the historic site referred to in subsection (a)(2).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by survey satisfactory to the Secretary. The cost of the survey shall be borne by the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2857. LAND CONVEYANCES, CHARLESTON AIR FORCE BASE, SOUTH CAROLINA.**

(a) CONVEYANCE TO STATE OF SOUTH CAROLINA AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the State of South Carolina (in this section referred to as the "State"), all right, title, and interest of the United States in and to a portion (as determined under subsection (c)) of the real property, including any improvements thereon, consisting of approximately 24 acres at Charleston Air Force Base, South Carolina, and comprising the Air Force Family Housing Annex. The purpose of the conveyance is to facilitate the Remount Road Project.

(b) CONVEYANCE TO CITY OF NORTH CHARLESTON AUTHORIZED.—The Secretary may convey, without consideration, to the City of North Charleston, South Carolina (in this section referred to as the "City"), all right, title, and interest of the United States in and to a portion (as determined under subsection (c)) of the real property, including any improvements thereon, referred to in subsection (a). The purpose of the conveyance is to permit the use of the property by the City for municipal purposes.

(c) DETERMINATION OF PORTIONS OF PROPERTY TO BE CONVEYED.—(1) Subject to paragraph (2), the Secretary, the State,

and the City shall jointly determine the portion of the property referred to in subsection (a) that is to be conveyed to the State under subsection (a) and the portion of the property that is to be conveyed to the City under subsection (b).

(2) In determining under paragraph (1) the portions of property to be conveyed under this section, the portion to be conveyed to the State shall be the minimum portion of the property required by the State for the purpose specified in subsection (a), and the portion to be conveyed to the City shall be the balance of the property.

(d) LIMITATION ON CONVEYANCES.—The Secretary may not carry out the conveyance of property authorized by subsection (a) or (b) until the completion of an assessment of environmental contamination of the property authorized to be conveyed by such subsection for purposes of determining responsibility for environmental remediation of such property.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of the survey for the property to be conveyed under subsection (a) shall be borne by the State, and the cost of the survey for the property to be conveyed under subsection (b) shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2858. TRANSFER OF JURISDICTION, MUKILTEO TANK FARM, EVERETT, WASHINGTON.**

(a) TRANSFER AUTHORIZED.—The Secretary of the Air Force shall transfer, without reimbursement, to the Secretary of Commerce administrative jurisdiction over a parcel of real property, including improvements thereon, consisting of approximately 1.1 acres located at the Mukilteo Tank Farm in Everett, Washington, and containing the Mukilteo Research Center facility of the National Marine Fisheries Service.

(b) TIME FOR CONVEYANCE.—The Secretary of the Air Force shall make the transfer under subsection (a) at the same time that the Secretary makes the conveyance authorized by section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–436).

(c) EXCHANGE.—With the consent of the Port Authority for Everett, Washington, the Secretary of Commerce may exchange with the Port Authority all or any portion of the property transferred under subsection (a) for a parcel of real property of equal area at the Mukilteo Tank Farm that is owned by the Port Authority.

(d) ADMINISTRATION.—The Secretary of Commerce shall administer the property transferred under subsection (a) or received under subsection (c) through the Administrator of the National Oceanic and Atmospheric Administration as part of the Administration. The Administrator shall use the property as the location of a research facility, and may construct a new facility on the property for such research purposes as the Administrator considers appropriate.

(e) EFFECT OF FAILURE TO UTILIZE TRANSFERRED PROPERTY.—(1) If, after the 12-year period beginning on the date of the enactment of this Act, the Administrator is not using any portion of the property transferred under subsection (a) or received under subsection (c) for the purpose specified in subsection (d), the Administrator shall convey, without consideration, to the Port Authority for Everett, Washington, all right, title, and interest in and to such portion of the real property, including improvements thereon.

(2) The Port Authority shall use any real property conveyed to the Port Authority under this subsection for development and operation of a port facility and for other public purposes.

(f) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force. The cost of the survey shall be borne by the Secretary of Commerce.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer under subsection (a) as the Secretary of the Air Force considers appropriate to protect the interests of the United States.

(h) CONFORMING AMENDMENT.—Section 2866(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–436) is amended by striking "22 acres" and inserting "20.9 acres".

# Subtitle E—Other Matters

**SEC. 2861. MANAGEMENT OF THE PRESIDIO OF SAN FRANCISCO.**

(a) AUTHORITY TO LEASE CERTAIN HOUSING UNITS FOR USE AS ARMY HOUSING.—Title I of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 16 U.S.C. 460bb note) is amended by adding at the end the following new section:

**"SEC. 107. CONDITIONAL AUTHORITY TO LEASE CERTAIN HOUSING UNITS WITHIN THE PRESIDIO.**

"(a) AVAILABILITY OF HOUSING UNITS FOR LONG-TERM ARMY LEASE.—Subject to subsection (c), the Trust shall make available for lease, to those persons designated by the Secretary of the Army and for such length of time as requested by the Secretary of the Army, 22 housing units located within the Presidio that are under the administrative jurisdiction of the Trust and specified in the agreement between the Trust and the Secretary of the Army in existence as of the date of the enactment of this section.

"(b) LEASE AMOUNT.—The monthly amount charged by the Trust for the lease of a housing unit under this section shall be equivalent to the monthly rate of the basic allowance for housing that the occupant of the housing unit is entitled to receive under section 403 of title 37, United States Code.

"(c) CONDITION ON CONTINUED AVAILABILITY OF HOUSING UNITS.—Effective after the end of the four-year period beginning on the date of the enactment of this section, the Trust shall have no obligation to make housing units available under subsection (a) unless, during that four-year period, the Secretary of the

Treasury purchases new obligations of at least $80,000,000 issued by the Trust under section 104(d)(2). In the event that this condition is not satisfied, the existing agreement referred to in subsection (a) shall be renewed on the same terms and conditions for an additional five years.".

(b) INCREASED BORROWING AUTHORITY AND TECHNICAL CORRECTIONS.—Paragraphs (2) and (3) of section 104(d) of title I of division I of the Omnibus Parks and Public Lands Management Act of 1996, as amended by section 334 of appendix C of Public Law 106–113 (113 Stat. 1501A–198) and amended and redesignated by section 101(13) of Public Law 106–176 (114 Stat. 25), are amended—

(1) in paragraph (2), by striking "including a review of the creditworthiness of the loan and establishment of a repayment schedule," the second place it appears; and

(2) in paragraph (3)—

(A) by striking "$50,000,000" and inserting "$150,000,000"; and

(B) by striking "paragraph (3) of".

**SEC. 2862. TRANSFER OF JURISDICTION FOR DEVELOPMENT OF AIR FORCE MORALE, WELFARE, AND RECREATION FACILITY, PARK CITY, UTAH.**

(a) TRANSFER AUTHORIZED.—(1) The Secretary of the Interior may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Air Force a parcel of real property in Park City, Utah, including any improvements thereon, that consists of approximately 35 acres, is located on the north side of State highway 248 in township 2 south, range 4 east, Salt Lake meridian, and is designated as parcel 3 by the Bureau of Land Management. The real property to be transferred under this paragraph does not include any lands located on the south side of State highway 248.

(2) The transfer shall be subject to existing rights, except that the Secretary of the Interior shall terminate any lease with respect to the parcel issued under the Act of June 14, 1926 (commonly known as the Recreation and Public Purposes Act; 43 U.S.C. 689 et seq.), and still in effect as of the date of the enactment of this Act.

(b) USE OF TRANSFERRED LAND.—(1) The Secretary of the Air Force may use the real property transferred under subsection (a) as the location for an Air Force morale, welfare, and recreation facility to be developed using nonappropriated funds.

(2) The Secretary of the Air Force may return the transferred property (or property acquired in exchange for the transferred property under subsection (c)) to the administrative jurisdiction of the Secretary of the Interior at any time upon certifying that development of the morale, welfare, and recreation facility would not be in the best interests of the Government.

(c) SUBSEQUENT CONVEYANCE AUTHORITY.—(1) In lieu of developing the Air Force morale, welfare, and recreation facility on the real property transferred under subsection (a), the Secretary of the Air Force may convey or lease the property to the State of Utah, a local government, or a private entity in exchange for other property to be used as the site of the facility.

(2) The values of the properties exchanged by the Secretary under this subsection either shall be equal, or if they are not

equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. The conveyance or lease shall be on such other terms as the Secretary of the Air Force considers to be advantageous to the development of the facility.

(d) ALTERNATIVE DEVELOPMENT AUTHORITY.—The Secretary of the Air Force may lease the real property transferred under subsection (a), or any property acquired pursuant to subsection (c), to another party and may enter into a contract with the party for the design, construction, and operation of the Air Force morale, welfare, and recreation facility. The Secretary of the Air Force may authorize the contractor to operate the facility as both a military and a commercial operation if the Secretary determines that such an authorization is a necessary incentive for the contractor to agree to design, construct, and operate the facility.

(e) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey. The cost of the survey shall be borne by the Secretary of the Air Force.

**SEC. 2863. ALTERNATE SITE FOR UNITED STATES AIR FORCE MEMORIAL, PRESERVATION OF OPEN SPACE ON ARLINGTON RIDGE TRACT, AND RELATED LAND TRANSFER AT ARLINGTON NATIONAL CEMETERY, VIRGINIA.**

(a) DEFINITIONS.—In this section:

(1) The term "Arlington Naval Annex" means the parcel of Federal land located in Arlington County, Virginia, that is subject to transfer to the administrative jurisdiction of the Secretary of the Army under section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 879).

(2) The term "Foundation" means the Air Force Memorial Foundation, which was authorized in Public Law 103–163 (107 Stat. 1973; 40 U.S.C. 1003 note) to establish a memorial in the District of Columbia or its environs to honor the men and women who have served in the United States Air Force and its predecessors.

(3) The term "Air Force Memorial" means the United States Air Force Memorial to be established by the Foundation.

(4) The term "Arlington Ridge tract" means the parcel of Federal land in Arlington County, Virginia, known as the Nevius Tract and transferred to the Department of the Interior in 1953, that is bounded generally by—

(A) Arlington Boulevard (United States Route 50) to the north;

(B) Jefferson Davis Highway (Virginia Route 110) to the east;

(C) Marshall Drive to the south; and

(D) North Meade Street to the west.

(5) The term "Section 29" means a parcel of Federal land in Arlington County, Virginia, that is currently administered by the Secretary of the Interior within the boundaries of Arlington National Cemetery and is identified as "Section 29".

(b) USE OF ARLINGTON NAVAL ANNEX AS SITE FOR AIR FORCE MEMORIAL.—

(1) AVAILABILITY OF SITE.—The Secretary of Defense shall make available to the Foundation, without reimbursement, up

to three acres of the Arlington Naval Annex, which the Foundation shall use as the location for the Air Force Memorial in lieu of any previously approved location for the Air Force Memorial. The land made available shall include the promontory adjacent to, and the land underlying, Wing 8 of Federal Office Building #2 in the northeast quadrant of the Arlington Naval Annex.

(2) EXCEPTION.—The requirement to use the land made available under paragraph (1) as the location for the Air Force Memorial, and the prohibition on the use of any previously approved location, shall not apply if the Secretary of Defense determines that it is physically impracticable to construct the Air Force Memorial on such land on account of the geological nature of the land.

(3) RELATION TO OTHER TRANSFER AUTHORITY.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall transfer to the Secretary of the Army administrative jurisdiction over the Arlington Naval Annex site made available under this subsection for construction of the Air Force Memorial. Nothing in this subsection alters the deadline for transfer of the remainder of the Arlington Naval Annex to the Secretary of the Army and remediation of the transferred land for use as part of Arlington National Cemetery, as required by section 2881 of the Military Construction Authorization Act for Fiscal Year 2000.

(c) SITE PREPARATION.—

(1) PREPARATION FOR CONSTRUCTION.—Upon receipt of notification from the Foundation that the Foundation has sufficient funds to commence construction of the Air Force Memorial, the Secretary of Defense, in coordination with the Foundation, shall remove Wing 8 of Federal Office Building #2 at the Arlington Naval Annex, as well as its associated outbuilding and parking lot, and prepare the land made available under subsection (b) for construction of the Air Force Memorial. In addition to demolition and removal, such site preparation work may include environmental remediation, installation of water, sewer, telephone, electrical, and storm water management infrastructure necessary for the memorial, installation of sidewalks consistent with the design of the memorial compliant with the requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the placement of screening berms and mature evergreen trees between Federal Office Building #2 and the memorial.

(2) COMPLETION.—Not later than two years after the date on which the Foundation provides the notification referred to in paragraph (1), the Secretary of Defense shall complete the demolition and removal of the structures and such site preparation work as the Secretary agrees to undertake under this subsection.

(3) FUNDING SOURCE.—The Secretary of Defense shall use amounts appropriated for operation and maintenance to carry out the demolition and removal work and site preparation described in paragraph (1).

(4) ASSISTANCE FOR DISPLACED AGENCY.—The Secretary of the Army shall serve as the Executive Agent for the Ballistic Missile Defense Organization in securing suitable sites, including, if necessary, sites not currently owned by the United

States, to replace offices lost as a result of the demolition of Wing 8 of Federal Office Building #2 at the Arlington Naval Annex.

(d) CONSTRUCTION OF AIR FORCE MEMORIAL.—

(1) COMMENCEMENT.—Upon the demolition and removal of the structures required to be removed under subsection (c)(1), the Secretary of Defense shall permit the Foundation to commence construction of the Air Force Memorial on the Arlington Naval Annex site made available under subsection (b).

(2) OVERSIGHT.—The Secretary of Defense shall have exclusive authority in all matters relating to approval of the siting and design of the Air Force Memorial on the Arlington Naval Annex site, and the siting, design, and construction of the memorial on such site shall not be subject to the requirements of the Commemorative Works Act (40 U.S.C. 1001 et seq.).

(3) EFFECT OF FAILURE TO COMMENCE CONSTRUCTION.—If, within five years after the date of the enactment of this Act, the Foundation has not commenced construction of the Air Force Memorial on the Arlington Naval Annex site made available under subsection (b), the Secretary of Defense may revoke the authority of the Foundation to use the site as the location of the memorial.

(e) ACCESS AND MANAGEMENT OF AIR FORCE MEMORIAL.—The Secretary of the Army may enter into a cooperative agreement with the Foundation to provide for management, maintenance, and repair of the Air Force Memorial constructed on the Arlington Naval Annex site made available under subsection (b) and to guarantee public access to the memorial.

(f) LIMITATION ON USE OF ARLINGTON NAVAL ANNEX AS SITE FOR OTHER MEMORIALS OR MUSEUMS.—Section 2881(b) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 879) is amended by striking paragraph (2) and inserting the following new paragraph (2):

"(2) The Secretary of Defense shall reserve not more than four acres of the Navy Annex property south of the existing Columbia Pike as a site for—

"(A) a National Military Museum, if such site is recommended for such purpose by the Commission on the National Military Museum established under section 2901 and the Secretary of Defense considers such site compatible with Arlington National Cemetery and the Air Force Memorial; or

"(B) such other memorials or museums that the Secretary of Defense considers compatible with Arlington National Cemetery and the Air Force Memorial.".

(g) PRESERVATION OF ARLINGTON RIDGE TRACT.—

(1) GENERAL RULE.—After the date of the enactment of this Act, no additional structure or memorials shall be constructed on the Arlington Ridge tract.

(2) OPTION FOR FUTURE BURIALS.—Paragraph (1) does not prohibit the eventual use of a portion of the Arlington Ridge tract as a location for in-ground burial sites and columbarium for the burial of individuals eligible for burial in Arlington National Cemetery, if the development of such sites is specifically authorized in a law enacted after the date of the enactment of this Act.

(h) LAND TRANSFER, SECTION 29.—

(1) TRANSFER REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Interior shall transfer, without reimbursement, to the Secretary of the Army administrative jurisdiction over that portion of Section 29 designated as the interment zone and consisting of approximately 12 acres. The Secretary of the Interior shall modify the boundaries of the George Washington Memorial Parkway as may be necessary to reflect the land transfer required by this subsection.

(2) USE OF TRANSFERRED LAND.—The Secretary of the Army shall use the transferred property for the development of in-ground burial sites and columbarium that are designed to meet the contours of Section 29.

(3) MANAGEMENT OF REMAINDER.—The Secretary of the Interior shall manage that portion of Section 29 not transferred under this subsection in perpetuity to provide a natural setting and visual buffer for Arlington House, the Robert E. Lee Memorial.

(4) REPEAL OF OBSOLETE LAW.—Section 2821(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2791) is repealed.

**SEC. 2864. ESTABLISHMENT OF MEMORIAL TO VICTIMS OF TERRORIST ATTACK ON PENTAGON RESERVATION AND AUTHORITY TO ACCEPT MONETARY CONTRIBUTIONS FOR MEMORIAL AND REPAIR OF PENTAGON.**

(a) MEMORIAL AUTHORIZED.—The Secretary of Defense may establish a memorial at the Pentagon Reservation dedicated to the victims of the terrorist attack on the Pentagon that occurred on September 11, 2001. The Secretary shall use necessary amounts in the Pentagon Reservation Maintenance Revolving Fund established by section 2674(e) of title 10, United States Code, including amounts deposited in the Fund under subsection (c), to plan, design, construct, and maintain the memorial.

(b) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of Defense may accept monetary contributions made for the purpose of assisting in—

(1) the establishment of the memorial to the victims of the terrorist attack; and

(2) the repair of the damage caused to the Pentagon Reservation by the terrorist attack.

(c) DEPOSIT OF CONTRIBUTIONS.—The Secretary of Defense shall deposit contributions accepted under subsection (b) in the Pentagon Reservation Maintenance Revolving Fund. The contributions shall be available for expenditure only for the purposes specified in subsection (b).

**SEC. 2865. REPEAL OF LIMITATION ON COST OF RENOVATION OF PENTAGON RESERVATION.**

Section 2864 of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2806) is repealed.

**SEC. 2866. DEVELOPMENT OF UNITED STATES ARMY HERITAGE AND EDUCATION CENTER AT CARLISLE BARRACKS, PENNSYLVANIA.**

(a) AUTHORITY TO ENTER INTO AGREEMENT.—(1) The Secretary of the Army may enter into an agreement with the Military Heritage

Foundation, a nonprofit organization, for the design, construction, and operation of a facility for the United States Army Heritage and Education Center at Carlisle Barracks, Pennsylvania (in this section referred to as the "facility").

(2) The facility is to be used for curation and storage of artifacts, research facilities, classrooms, and offices, and for education and other activities, agreed to by the Secretary, relating to the heritage of the Army. The facility may also be used to support such education and training as the Secretary considers appropriate.

(b) DESIGN AND CONSTRUCTION.—The design of the facility shall be subject to the approval of the Secretary. At the election of the Secretary, the Secretary may—

(1) accept funds from the Military Heritage Foundation for the design and construction of the facility; or

(2) permit the Military Heritage Foundation to contract for the design and construction of the facility.

(c) ACCEPTANCE OF FACILITY.—(1) Upon satisfactory completion, as determined by the Secretary, of the facility, and upon the satisfaction of any and all financial obligations incident thereto by the Military Heritage Foundation, the Secretary shall accept the facility from the Military Heritage Foundation, and all right, title, and interest in and to the facility shall vest in the United States.

(2) Upon becoming property of the United States, the facility shall be under the jurisdiction of the Secretary.

(d) USE OF CERTAIN GIFTS.—(1) Under regulations prescribed by the Secretary, the Commandant of the Army War College may, without regard to section 2601 of title 10, United States Code, accept, hold, administer, invest, and spend any gift, devise, or bequest of personnel property of a value of $250,000 or less made to the United States if such gift, devise, or bequest is for the benefit of the United States Army Heritage and Education Center.

(2) The Secretary may pay or authorize the payment of any reasonable and necessary expense in connection with the conveyance or transfer of a gift, devise, or bequest under this subsection.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized to be entered into by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2867. EFFECT OF LIMITATION ON 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) is amended in the first sentence by inserting after "maintain" the following: ", notwithstanding any provision of State law to the contrary,".

**SEC. 2868. ESTABLISHMENT OF WORLD WAR II MEMORIAL AT ADDITIONAL LOCATION ON GUAM.**

Section 2886 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A–441) is amended—

(1) in subsection (a), by inserting ", and on Federal lands near Yigo," after "Fena Caves";

(2) in the heading of subsection (b), by striking "MEMORIAL" and inserting "MEMORIALS"; and

(3) in subsections (b) and (c), by striking "memorial" each place it appears and inserting "memorials".

**SEC. 2869. DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.**

(a) EXTENSION.—Subsection (c) of section 816 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820), as added by section 2873 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2225), is amended by striking "September 30, 2001." and inserting "January 31, 2002, with regard to fire-fighting and police services, and September 30, 2003, with regard to other services described in subsection (a).".

(b) CONFORMING AMENDMENT.—Section 1206 of the Supplemental Appropriations Act, 2001 (Public Law 107–20; 115 Stat. 161), is repealed.

**SEC. 2870. REPORT ON FUTURE LAND NEEDS OF UNITED STATES MILITARY ACADEMY, NEW YORK, AND ADJACENT COMMUNITY.**

(a) REPORT REQUIRED.—Not later than February 1, 2002, the Secretary of the Army shall submit to Congress a report evaluating the future needs of the United States Military Academy for lands suitable for use for military training and the feasibility of making unneeded lands available to the Village of Highland Falls, New York, through fee simple conveyance, long-term lease under section 2667 of title 10, United States Code, or other means.

(b) CONSULTATION.—The Secretary shall prepare the report in consultation with appropriate officials of the Village of Highland Falls.

**SEC. 2871. NAMING OF PATRICIA C. LAMAR ARMY NATIONAL GUARD READINESS CENTER, OXFORD, MISSISSIPPI.**

The Oxford Army National Guard Readiness Center, Oxford, Mississippi, shall be known and designated as the "Patricia C. Lamar Army National Guard Readiness Center". Any reference to that readiness center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Patricia C. Lamar Army National Guard Readiness Center.

# TITLE XXIX—FORT IRWIN MILITARY LAND WITHDRAWAL

Sec. 2901. Short title.
Sec. 2902. Withdrawal and reservation of lands for National Training Center.
Sec. 2903. Map and legal description.
Sec. 2904. Management of withdrawn and reserved lands.
Sec. 2905. Water rights.
Sec. 2906. Environmental compliance and environmental response requirements.
Sec. 2907. West Mojave Coordinated Management Plan.
Sec. 2908. Release of wilderness study areas.
Sec. 2909. Training activity separation from utility corridors.
Sec. 2910. Duration of withdrawal and reservation.
Sec. 2911. Extension of initial withdrawal and reservation.
Sec. 2912. Termination and relinquishment.
Sec. 2913. Delegation of authority.

**SEC. 2901. SHORT TITLE.**

This title may be cited as the "Fort Irwin Military Land Withdrawal Act of 2001".

**SEC. 2902. WITHDRAWAL AND RESERVATION OF LANDS FOR NATIONAL TRAINING CENTER.**

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, all public lands and interests in lands described in subsection (c) are hereby withdrawn from all forms of appropriation under the general land laws, including the mining laws and mineral and geothermal leasing laws, and jurisdiction over such lands and interests in lands withdrawn and reserved by this title is hereby transferred to the Secretary of the Army.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army for the following purposes:

(1) The conduct of combined arms military training at the National Training Center.

(2) The development and testing of military equipment at the National Training Center.

(3) Other defense-related purposes consistent with the purposes specified in paragraphs (1) and (2).

(4) Conservation and related research purposes.

(c) LAND DESCRIPTION.—The public lands and interests in lands withdrawn and reserved by this section comprise approximately 110,000 acres in San Bernardino County, California, as generally depicted as "Proposed Withdrawal Land" on the map entitled "National Training Center—Proposed Withdrawal of Public Lands for Training Purposes", dated September 21, 2000, and filed in accordance with section 2903.

(d) CHANGES IN USE.—The Secretary of the Army shall consult with the Secretary of the Interior before using the lands withdrawn and reserved by this section for any purpose other than those purposes identified in subsection (b).

(e) INDIAN TRIBES.—Nothing in this title shall be construed as altering any rights reserved for tribal use by treaty or Federal law. The Secretary of the Army shall consult with federally recognized Indian tribes in the vicinity of the lands withdrawn under subsection (a) before taking action affecting rights or cultural resources protected by treaty or Federal law.

**SEC. 2903. MAP AND LEGAL DESCRIPTION.**

(a) PREPARATION OF MAP AND LEGAL DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map and legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(b) LEGAL EFFECT.—The map and legal description shall have the same force and effect as if included in this title, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(c) AVAILABILITY.—Copies of the map and the legal description shall be available for public inspection in the following offices:

(1) The offices of the California State Director, California Desert District Office, and Riverside and Barstow Field Offices of the Bureau of Land Management.

(2) The Office of the Commander, National Training Center and Fort Irwin.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs incurred by the Secretary of the Interior in implementing this section.

**SEC. 2904. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.**

(a) GENERAL MANAGEMENT AUTHORITY.—During the period of the withdrawal and reservation made by this title, the Secretary of the Army shall manage the lands withdrawn and reserved by this title for the purposes specified in section 2902.

(b) TEMPORARY PROHIBITION ON CERTAIN USE.—Military use of the lands withdrawn and reserved by this title that result in ground disturbance, as determined by the Secretary of the Army and the Secretary of the Interior, are prohibited until the Secretary of the Army and the Secretary of the Interior certify to Congress that there has been full compliance with respect to such lands with the appropriate provisions of this title, the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable laws.

(c) ACCESS RESTRICTIONS.—

(1) IN GENERAL.—If the Secretary of the Army determines that military operations, public safety, or national security require the closure to the public of any road, trail, or other portion of the lands withdrawn and reserved by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) LIMITATION.—Any closure under paragraph (1) shall be limited to the minimum areas and periods that the Secretary of the Army determines are required for the purposes specified in such paragraph.

(3) NOTICE.—Immediately preceding and during any closure under paragraph (1), the Secretary of the Army shall post appropriate warning notices and take other steps, as necessary, to notify the public of the closure.

(d) INTEGRATED NATURAL RESOURCES MANAGEMENT PLAN.—The Secretary of the Army shall prepare and implement, in accordance with title I of the Sikes Act (16 U.S.C. 670 et seq.), an integrated natural resources management plan for the lands withdrawn and reserved by this title. In addition to the elements required under the Sikes Act, the integrated natural resources management plan shall include the following:

(1) A requirement that any hunting, fishing, and trapping on the lands withdrawn and reserved by this title be conducted in accordance with section 2671 of title 10, United States Code.

(2) A requirement that the Secretary of the Army take necessary actions to prevent, suppress, and manage brush and range fires occurring within the boundaries of Fort Irwin and brush and range fires occurring outside the boundaries of Fort Irwin that result from military activities at Fort Irwin.

(e) FIREFIGHTING.—Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Army may obligate funds appropriated or otherwise available to the Secretary of the Army to enter into a memorandum of understanding, cooperative agreement, or contract for fire-fighting services to carry out the requirements of subsection (d)(2). The Secretary of the Army shall reimburse the Secretary of the Interior for costs incurred by the Secretary of the Interior to assist in carrying out the requirements of such subsection.

(f) CONSULTATION WITH NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—In preparing and implementing any plan, report, assessment, survey, opinion, or impact statement regarding the lands withdrawn and reserved by this title, the Secretary of the Army shall consult with the Administrator of the National Aeronautics and Space Administration whenever proposed Army actions have the potential to affect the operations or the environmental management of the Goldstone Deep Space Communications Complex. The requirement for consultation shall apply, at a minimum, to the following:

(1) Plans for military training, military equipment testing, or related activities that have the potential of impacting communications between Goldstone Deep Space Communications Complex and space flight missions or other transmission or receipt of signals from outer space by the Goldstone Deep Space Communications Complex.

(2) The integrated natural resources management plan required by subsection (d).

(3) The West Mojave Coordinated Management Plan referred to in section 2907.

(4) Any document prepared in compliance with the Endangered Species Act of 1973, the National Environmental Policy Act of 1969, and other laws applicable to the lands withdrawn and reserved by this title.

(g) USE OF MINERAL MATERIALS.—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 601 et seq.), the Secretary of the Army may use sand, gravel, or similar mineral material resources of the type subject to disposition under such Act from the lands withdrawn and reserved by this title if the use of such resources is required for construction needs of the National Training Center.

**SEC. 2905. WATER RIGHTS.**

(a) NO RESERVED WATER RIGHT ESTABLISHED.—Nothing in this title shall be construed—

(1) to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title; or

(2) to authorize the appropriation of water on such lands by the United States after the date of the enactment of this Act, except in accordance with applicable State law.

(b) EFFECT ON PREVIOUSLY ACQUIRED OR RESERVED WATER RIGHTS.—This section shall not be construed to affect any water rights acquired or reserved by the United States before the date of the enactment of this Act, and the Secretary of the Army may exercise any such previously acquired or reserved water rights.

**SEC. 2906. ENVIRONMENTAL COMPLIANCE AND ENVIRONMENTAL RESPONSE REQUIREMENTS.**

(a) AGREEMENTS CONCERNING THE ENVIRONMENT AND PUBLIC HEALTH.—The Secretary of the Army and the Secretary of the Interior shall enter into such agreements as are necessary, appropriate, and in the public interest to carry out the purposes of this title.

(b) RELATION TO OTHER ENVIRONMENTAL LAWS.—Nothing in this title shall relieve, and no action taken under this title may relieve, the Secretary of the Army or the Secretary of the Interior, or any other person from any liability or other obligation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or any other Federal or State law.

**SEC. 2907. WEST MOJAVE COORDINATED MANAGEMENT PLAN.**

(a) COMPLETION.—The Secretary of the Interior shall make every effort to complete the West Mojave Coordinated Management Plan not later than two years after the date of the enactment of this Act.

(b) CONSIDERATION OF WITHDRAWAL AND RESERVATION IMPACTS.—The Secretary of the Interior shall ensure that the West Mojave Coordinated Management Plan considers the impacts of the availability or nonavailability of the lands withdrawn and reserved by this title on the plan as a whole.

(c) CONSULTATION.—The Secretary of the Interior shall consult with the Secretary of the Army and the Administrator of the National Aeronautics and Space Administration in the development of the West Mojave Coordinated Management Plan.

**SEC. 2908. RELEASE OF WILDERNESS STUDY AREAS.**

Congress hereby finds and directs that lands withdrawn and reserved by this title have been adequately studied for wilderness designation pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), and are no longer subject to the requirement of such section pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

**SEC. 2909. TRAINING ACTIVITY SEPARATION FROM UTILITY CORRIDORS.**

(a) REQUIRED SEPARATION.—All military ground activity training on the lands withdrawn and reserved by this title shall remain at least 500 meters from any utility system, in existence as of the date of the enactment of this Act, in Utility Planning Corridor D, as described in the California Desert Conservation Area Plan, dated 1980 and subsequently amended.

(b) EXCEPTION.—Subsection (a) does not modify the use of any lands used, as of the date of the enactment of this Act, by the National Training Center for training or alter any right of access granted by interagency agreement.

**SEC. 2910. DURATION OF WITHDRAWAL AND RESERVATION.**

(a) TERMINATION DATE.—Unless extended pursuant to section 2911, unless relinquishment is postponed by the Secretary of the Interior pursuant to section 2912(b), and except as provided in section 2912(d), the withdrawal and reservation made by this title

shall terminate 25 years after the date of the enactment of this Act.

(b) LIMITATION ON SUBSEQUENT AVAILABILITY FOR APPROPRIATION.—At the time of termination of the withdrawal and reservation made by this title, the previously withdrawn lands shall not be open to any forms of appropriation under the general land laws, including the mining laws and the mineral and geothermal leasing laws, until the Secretary of the Interior publishes in the Federal Register an appropriate order specifying the date upon which such lands shall be restored to the public domain and opened.

**SEC. 2911. EXTENSION OF INITIAL WITHDRAWAL AND RESERVATION.**

(a) NOTIFICATION REQUIREMENT.—Not later than three years before the termination date specified in section 2910(a), the Secretary of the Army shall notify Congress and the Secretary of the Interior whether the Army will have a continuing military need, beyond the termination date, for all or any portion of the lands withdrawn and reserved by this title.

(b) PROCESS FOR EXTENSION OF WITHDRAWAL AND RESERVATION.—

(1) CONSULTATION AND APPLICATION.—If the Secretary of the Army determines that there will be a continuing military need after the termination date for any of the lands withdrawn and reserved by this title, the Secretary of the Army shall—

(A) consult with the Secretary of the Interior concerning any adjustments to be made to the extent of, or to the allocation of management responsibility for, such needed lands; and

(B) file with the Secretary of the Interior, within one year after the notice required by subsection (a), an application for extension of the withdrawal and reservation of such needed lands.

(2) APPLICATION REQUIREMENTS.—Notwithstanding any general procedure of the Department of the Interior for processing Federal land withdrawals, an application for extension of the land withdrawal and reservation made by this title shall be considered to be complete if the application includes the information required by section 3 of Public Law 85–337 (commonly known as the Engle Act; 43 U.S.C. 157), except that no information shall be required concerning the use or development of mineral, timber, or grazing resources unless, and only to the extent, the Secretary of the Army proposes to use or develop such resources during the period of extension.

(c) SUBMISSION OF PROPOSED EXTENSION TO CONGRESS.—The Secretary of the Interior and the Secretary of the Army may submit to Congress a legislative proposal for the extension of the withdrawal and reservation made by this title. The legislative proposal shall be accompanied by an appropriate analysis of environmental impacts associated with the proposal, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

**SEC. 2912. TERMINATION AND RELINQUISHMENT.**

(a) NOTICE OF TERMINATION.—During the first 22 years of the withdrawal and reservation made by this title, if the Secretary of the Army determines that there is no continuing military need for the lands withdrawn and reserved by this title, or any portion

of such lands, the Secretary of the Army shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands. The notice shall specify the proposed date of relinquishment.

(b) ACCEPTANCE OF JURISDICTION.—The Secretary of the Interior may accept jurisdiction over any lands covered by a notice under subsection (a) if the Secretary of the Interior determines that the Secretary of the Army has taken or will take all environmental response and restoration activities required under applicable laws and regulations with respect to such lands.

(c) NOTICE OF ACCEPTANCE.—If the Secretary of the Interior decides to accept jurisdiction over lands covered by a notice under subsection (a) before the termination date of the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order that shall—

(1) terminate the withdrawal and reservation of such lands under this title;

(2) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(d) RETAINED ARMY JURISDICTION.—Notwithstanding the termination date specified in section 2910, unless and until the Secretary of the Interior accepts jurisdiction of land proposed for relinquishment pursuant to this section, such land shall remain withdrawn and reserved for the Secretary of the Army for the limited purposes of environmental response and restoration actions under section 2906 and continued land management responsibilities pursuant to the integrated natural resources management plan required under section 2904, until such environmental response and restoration activities on those lands are completed.

(e) SEVERABILITY OF FUNCTIONS.—All functions described under this section, including transfers, relinquishments, extensions, and other determinations, may be made on a parcel-by-parcel basis.

**SEC. 2913. DELEGATION OF AUTHORITY.**

(a) SECRETARY OF THE ARMY.—The Secretary of the Army may delegate to officials in the Department of the Army such functions as the Secretary of the Army may determine appropriate to carry out this title.

(b) SECRETARY OF THE INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that the order described in section 2912(c) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

# TITLE XXX—REALIGNMENT AND CLOSURE OF MILITARY INSTALLATIONS AND PREPARATION OF INFRASTRUCTURE PLAN FOR THE NUCLEAR WEAPONS COMPLEX

Sec. 3001. Authorization of round of realignments and closures of military installations in 2005.
Sec. 3002. Selection criteria.
Sec. 3003. Revised procedures for making recommendations for realignments and closures and commission consideration of recommendations.
Sec. 3004. Limitations on privatization in place.
Sec. 3005. Department of Defense Base Closure Account 2005.
Sec. 3006. Implementation of closure and realignment decisions.
Sec. 3007. Technical and clarifying amendments.
Sec. 3008. Preparation of infrastructure plan for the nuclear weapons complex.

**SEC. 3001. AUTHORIZATION OF ROUND OF REALIGNMENTS AND CLOSURES OF MILITARY INSTALLATIONS IN 2005.**

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 adding at the end the following new section:

**"SEC. 2912. 2005 ROUND OF REALIGNMENTS AND CLOSURES OF MILITARY INSTALLATIONS.**

"(a) FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY.—

"(1) PREPARATION AND SUBMISSION.—As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for fiscal year 2005, the Secretary shall include the following:

"(A) A force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the 20-year period beginning with fiscal year 2005, the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet these threats, and the anticipated levels of funding that will be available for national defense purposes during such period.

"(B) A comprehensive inventory of military installations world-wide for each military department, with specifications of the number and type of facilities in the active and reserve forces of each military department.

"(2) RELATIONSHIP OF PLAN AND INVENTORY.—Using the force-structure plan and infrastructure inventory prepared under paragraph (1), the Secretary shall prepare (and include as part of the submission of such plan and inventory) the following:

"(A) A description of the infrastructure necessary to support the force structure described in the force-structure plan.

"(B) A discussion of categories of excess infrastructure and infrastructure capacity.

"(C) An economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure.

"(3) SPECIAL CONSIDERATIONS.—In determining the level of necessary versus excess infrastructure under paragraph (2), the Secretary shall consider the following:

"(A) The anticipated continuing need for and availability of military installations outside the United States, taking into account current restrictions on the use of military installations outside the United States and the potential for future prohibitions or restrictions on the use of such military installations.

"(B) Any efficiencies that may be gained from joint tenancy by more than one branch of the Armed Forces at a military installation.

"(4) REVISION.—The Secretary may revise the force-structure plan and infrastructure inventory. If the Secretary makes such a revision, the Secretary shall submit the revised plan or inventory to Congress as part of the budget justification documents submitted to Congress for fiscal year 2006.

"(b) CERTIFICATION OF NEED FOR FURTHER CLOSURES AND REALIGNMENTS.—

"(1) CERTIFICATION REQUIRED.—On the basis of the force-structure plan and infrastructure inventory prepared under subsection (a) and the descriptions and economic analysis prepared under such subsection, the Secretary shall include as part of the submission of the plan and inventory—

"(A) a certification regarding whether the need exists for the closure or realignment of additional military installations; and

"(B) if such need exists, a certification that the additional round of closures and realignments would result in annual net savings for each of the military departments beginning not later than fiscal year 2011.

"(2) EFFECT OF FAILURE TO CERTIFY.—If the Secretary does not include the certifications referred to in paragraph (1), the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

"(c) COMPTROLLER GENERAL EVALUATION.—

"(1) EVALUATION REQUIRED.—If the certification is provided under subsection (b), the Comptroller General shall prepare an evaluation of the following:

"(A) The force-structure plan and infrastructure inventory prepared under subsection (a) and the final selection criteria prepared under section 2913, including an evaluation of the accuracy and analytical sufficiency of such plan, inventory, and criteria.

"(B) The need for the closure or realignment of additional military installations.

"(2) SUBMISSION.—The Comptroller General shall submit the evaluation to Congress not later than 60 days after the date on which the force-structure plan and infrastructure inventory are submitted to Congress.

"(d) AUTHORIZATION OF ADDITIONAL ROUND; COMMISSION.—

"(1) APPOINTMENT OF COMMISSION.—Subject to the certifications required under subsection (b), the President may commence an additional round for the selection of military installations for closure and realignment under this part in 2005 by transmitting to the Senate, not later than March 15, 2005,

nominations pursuant to section 2902(c) for the appointment of new members to the Defense Base Closure and Realignment Commission.

"(2) EFFECT OF FAILURE TO NOMINATE.—If the President does not transmit to the Senate the nominations for the Commission by March 15, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

"(3) MEMBERS.—Notwithstanding section 2902(c)(1), the Commission appointed under the authority of this subsection shall consist of nine members.

"(4) TERMS; MEETINGS; TERMINATION.—Notwithstanding subsections (d), (e)(1), and (*l*) of section 2902, the Commission appointed under the authority of this subsection shall meet during calendar year 2005 and shall terminate on April 15, 2006.

"(5) FUNDING.—If no funds are appropriated to the Commission by the end of the second session of the 108th Congress for the activities of the Commission in 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in that year such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.".

**SEC. 3002. SELECTION CRITERIA.**

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 inserting after section 2912, as added by section 3001, the following new section:

**"SEC. 2913. SELECTION CRITERIA FOR 2005 ROUND.**

"(a) PREPARATION OF PROPOSED SELECTION CRITERIA.—

"(1) IN GENERAL.—Not later than December 31, 2003, the Secretary shall publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.

"(2) PUBLIC COMMENT.—The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under this subsection.

"(b) MILITARY VALUE AS PRIMARY CONSIDERATION.—The selection criteria prepared by the Secretary shall ensure that military value is the primary consideration in the making of recommendations for the closure or realignment of military installations under this part in 2005. Military value shall include at a minimum the following:

"(1) Preservation of training areas suitable for maneuver by ground, naval, or air forces to guarantee future availability of such areas to ensure the readiness of the Armed Forces.

"(2) Preservation of military installations in the United States as staging areas for the use of the Armed Forces in homeland defense missions.

"(3) Preservation of military installations throughout a diversity of climate and terrain areas in the United States for training purposes.

"(4) The impact on joint warfighting, training, and readiness.

"(5) Contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations and training.

"(c) SPECIAL CONSIDERATIONS.—The selection criteria for military installations shall also address at a minimum the following:

"(1) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

"(2) The economic impact on existing communities in the vicinity of military installations.

"(3) The ability of both existing and potential receiving communities' infrastructure to support forces, missions, and personnel.

"(4) The impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

"(d) EFFECT ON DEPARTMENT AND OTHER AGENCY COSTS.—Any selection criteria proposed by the Secretary relating to the cost savings or return on investment from the proposed closure or realignment of military installations shall take into account the effect of the proposed closure or realignment on the costs of any other activity of the Department of Defense or any other Federal agency that may be required to assume responsibility for activities at the military installations.

"(e) FINAL SELECTION CRITERIA.—Not later than February 16, 2004, the Secretary shall publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005. Such criteria shall be the final criteria to be used, along with the force-structure plan and infrastructure inventory referred to in section 2912, in making such recommendations unless disapproved by an Act of Congress enacted on or before March 15, 2004.

"(f) RELATION TO CRITERIA FOR EARLIER ROUNDS.—Section 2903(b), and the selection criteria prepared under such section, shall not apply with respect to the process of making recommendations for the closure or realignment of military installations in 2005.".

**SEC. 3003. REVISED PROCEDURES FOR MAKING RECOMMENDATIONS FOR REALIGNMENTS AND CLOSURES AND COMMISSION CONSIDERATION OF RECOMMENDATIONS.**

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 inserting after section 2913, as added by section 3002, the following new section:

**"SEC. 2914. SPECIAL PROCEDURES FOR MAKING RECOMMENDATIONS FOR REALIGNMENTS AND CLOSURES FOR 2005 ROUND; COMMISSION CONSIDERATION OF RECOMMENDATIONS.**

"(a) RECOMMENDATIONS REGARDING CLOSURE OR REALIGNMENT OF MILITARY INSTALLATIONS.—If the Secretary makes the certifications required under section 2912(b), the Secretary shall publish in the Federal Register and transmit to the congressional defense committees and the Commission, not later than May 16, 2005, a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and infrastructure inventory prepared by the Secretary under section 2912 and the final selection criteria prepared by the Secretary under section 2913.

"(b) PREPARATION OF RECOMMENDATIONS.—

"(1) IN GENERAL.—The Secretary shall comply with paragraphs (2) through (6) of section 2903(c) in preparing and transmitting the recommendations under this section. However, paragraph (6) of section 2903(c) relating to submission of information to Congress shall be deemed to require such submission within 48 hours.

"(2) CONSIDERATION OF LOCAL GOVERNMENT VIEWS.—(A) In making recommendations to the Commission in 2005, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

"(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan, infrastructure inventory, and final selection criteria otherwise applicable to such recommendations.

"(C) The recommendations shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to a military installation covered by such recommendations. The statement shall set forth the reasons for the result.

"(c) RECOMMENDATIONS TO RETAIN BASES IN INACTIVE STATUS.—In making recommendations for the closure or realignment of military installations, the Secretary may recommend that an installation be placed in an inactive status if the Secretary determines that—

"(1) the installation may be needed in the future for national security purposes; or

"(2) retention of the installation is otherwise in the interest of the United States.

"(d) COMMISSION REVIEW AND RECOMMENDATIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, section 2903(d) shall apply to the consideration by the Commission of the recommendations transmitted by the Secretary in 2005. The Commission's report containing its findings and conclusions, based on a review and analysis of the Secretary's recommendations, shall be transmitted to the President not later than September 8, 2005.

"(2) AVAILABILITY OF RECOMMENDATIONS TO CONGRESS.—After September 8, 2005, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

"(3) LIMITATIONS ON AUTHORITY TO ADD TO CLOSURE OR REALIGNMENT LISTS.—The Commission may not consider making a change in the recommendations of the Secretary that would add a military installation to the Secretary's list of installations recommended for closure or realignment unless, in addition to the requirements of section 2903(d)(2)(C)—

"(A) the Commission provides the Secretary with at least a 15-day period, before making the change, in which to submit an explanation of the reasons why the installation was not included on the closure or realignment list by the Secretary; and

"(B) the decision to add the installation for Commission consideration is supported by at least seven members of the Commission.

"(4) TESTIMONY BY SECRETARY.—The Commission shall invite the Secretary to testify at a public hearing, or a closed hearing if classified information is involved, on any proposed change by the Commission to the Secretary's recommendations.

"(5) COMPTROLLER GENERAL REPORT.—The Comptroller General report required by section 2903(d)(5)(B) analyzing the recommendations of the Secretary and the selection process in 2005 shall be transmitted to the congressional defense committees not later than July 1, 2005.

"(e) REVIEW BY THE PRESIDENT.—

"(1) IN GENERAL.—Except as provided in this subsection, section 2903(e) shall apply to the review by the President of the recommendations of the Commission under this section, and the actions, if any, of the Commission in response to such review, in 2005. The President shall review the recommendations of the Secretary and the recommendations contained in the report of the Commission under subsection (d) and prepare a report, not later than September 23, 2005, containing the President's approval or disapproval of the Commission's recommendations.

"(2) COMMISSION RECONSIDERATION.—If the Commission prepares a revised list of recommendations under section 2903(e)(3) in 2005 in response to the review of the President in that year under paragraph (1), the Commission shall transmit the revised list to the President not later than October 20, 2005.

"(3) EFFECT OF FAILURE TO TRANSMIT.—If the President does not transmit to Congress an approval and certification described in paragraph (2) or (4) of section 2903(e) by November 7, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

"(4) EFFECT OF TRANSMITTAL.—A report of the President under this subsection containing the President's approval of the Commission's recommendations is deemed to be a report under section 2903(e) for purposes of sections 2904 and 2908.".

**SEC. 3004. LIMITATIONS ON PRIVATIZATION IN PLACE.**

Section 2904(a) 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—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

"(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in the 2005 report only if privatization in place is a method of closure or realignment of the military installation specified in the recommendations of the Commission in such report and is determined by the Commission to be the most cost-effective method of implementation of the recommendation;".

**SEC. 3005. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.**

(a) ESTABLISHMENT.—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 inserting after section 2906 the following new section:

**"SEC. 2906A. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.**

"(a) IN GENERAL.—(1) If the Secretary makes the certifications required under section 2912(b), there shall be established on the books of the Treasury an account to be known as the 'Department of Defense Base Closure Account 2005' (in this section referred to as the 'Account'). The Account shall be administered by the Secretary as a single account.

"(2) There shall be deposited into the Account—

"(A) funds authorized for and appropriated to the Account;

"(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees; and

"(C) except as provided in subsection (d), proceeds received from the lease, transfer, or disposal of any property at a military installation that is closed or realigned under this part pursuant to a closure or realignment the date of approval of which is after January 1, 2005.

"(3) The Account shall be closed at the time and in the manner provided for appropriation accounts under section 1555 of title 31, United States Code. Unobligated funds which remain in the Account upon closure shall be held by the Secretary of the Treasury until transferred by law after the congressional defense committees receive the final report transmitted under subsection (c)(2).

"(b) USE OF FUNDS.—(1) The Secretary may use the funds in the Account only for the purposes described in section 2905 with respect to military installations the date of approval of closure or realignment of which is after January 1, 2005.

"(2) When a decision is made to use funds in the Account to carry out a construction project under section 2905(a) and the cost of the project will exceed the maximum amount authorized by law for a minor military construction project, the Secretary shall notify in writing the congressional defense committees of the nature of, and justification for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

"(c) REPORTS.—(1)(A) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this part using amounts in the Account, the Secretary shall transmit a report to the congressional defense committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 2905(a) during such fiscal year.

"(B) The report for a fiscal year shall include the following:

"(i) The obligations and expenditures from the Account during the fiscal year, identified by subaccount, for each military department and Defense Agency.

"(ii) The fiscal year in which appropriations for such expenditures were made and the fiscal year in which funds were obligated for such expenditures.

"(iii) Each military construction project for which such obligations and expenditures were made, identified by installation and project title.

"(iv) A description and explanation of the extent, if any, to which expenditures for military construction projects for the fiscal year differed from proposals for projects and funding levels that were included in the justification transmitted to Congress under section 2907(1), or otherwise, for the funding proposals for the Account for such fiscal year, including an explanation of—

"(I) any failure to carry out military construction projects that were so proposed; and

"(II) any expenditures for military construction projects that were not so proposed.

"(2) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this part with respect to military installations the date of approval of closure or realignment of which is after January 1, 2005, and no later than 60 days after the closure of the Account under subsection (a)(3), the Secretary shall transmit to the congressional defense committees a report containing an accounting of—

"(A) all the funds deposited into and expended from the Account or otherwise expended under this part with respect to such installations; and

"(B) any amount remaining in the Account.

"(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part the date of approval of closure or realignment of which is after January 1, 2005, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

"(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary.

"(3) The Secretary may use amounts in the reserve account, without further appropriation, for the purpose of acquiring, constructing, and improving—

"(A) commissary stores; and

"(B) real property and facilities for nonappropriated fund instrumentalities.

"(4) In this subsection, the terms 'commissary store funds', 'nonappropriated funds', and 'nonappropriated fund instrumentality' shall have the meaning given those terms in section 2906(d)(4).

"(e) ACCOUNT EXCLUSIVE SOURCE OF FUNDS FOR ENVIRONMENTAL RESTORATION PROJECTS.—Except as provided in section 2906(e) with respect to funds in the Department of Defense Base Closure Account 1990 under section 2906 and except for funds deposited into the Account under subsection (a), funds appropriated to the Department of Defense may not be used for purposes described in section 2905(a)(1)(C). The prohibition in this subsection shall expire upon the closure of the Account under subsection (a)(3).".

(b) CONFORMING AMENDMENTS.—Section 2906 of that Act is amended—

(1) in subsection (a)(2)(C), by inserting "the date of approval of closure or realignment of which is before January 1, 2005" after "under this part";

(2) in subsection (b)(1), by inserting "with respect to military installations the date of approval of closure or realignment of which is before January 1, 2005," after "section 2905";

(3) in subsection (c)(2)—

(A) in the matter preceding subparagraph (A), by inserting "with respect to military installations the date of approval of closure or realignment of which is before January 1, 2005," after "under this part"; and

(B) in subparagraph (A), by inserting "with respect to such installations" after "under this part";

(4) in subsection (d)(1), by inserting "the date of approval of closure or realignment of which is before January 1, 2005" after "under this part"; and

(5) in subsection (e), by striking "Except for" and inserting "Except as provided in section 2906A(e) with respect to funds in the Department of Defense Base Closure Account 2005 under section 2906A and except for".

(c) CLERICAL AMENDMENT.—The section heading of section 2906 of that Act is amended by striking "**ACCOUNT**" and inserting "**DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990**".

**SEC. 3006. IMPLEMENTATION OF CLOSURE AND REALIGNMENT DECISIONS.**

(a) REQUIREMENT TO RECEIVE FAIR MARKET VALUE.—Section 2905(b)(4)(B) of that Act is amended—

(1) in the first sentence, by striking "shall be without consideration" in the matter preceding clause (i) and inserting "may be without consideration"; and

(2) by inserting after "(B)" the following new sentence: "With respect to military installations for which the date of approval of closure or realignment is after January 1, 2005, the Secretary shall seek to obtain consideration in connection with any transfer under this paragraph of property located

at the installation in an amount equal to the fair market value of the property, as determined by the Secretary.".

(b) TRANSFERS IN CONNECTION WITH PAYMENT OF ENVIRONMENTAL REMEDIATION.—Section 2905(e) of that Act is amended—

(1) in paragraph (1)(B), by adding at the end the following new sentence: "The real property and facilities referred to in subparagraph (A) are also the real property and facilities located at an installation approved for closure or realignment under this part after 2001 that are available for purposes other than to assist the homeless.";

(2) in paragraph (2)(A), by striking "to be paid by the recipient of the property or facilities" and inserting "otherwise to be paid by the Secretary with respect to the property or facilities";

(3) by striking paragraph (6);

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

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

"(3) In the case of property or facilities covered by a certification under paragraph (2)(A), the Secretary may pay the recipient of such property or facilities an amount equal to the lesser of—

"(A) the amount by which the costs incurred by the recipient of such property or facilities for all environmental restoration, waste, management, and environmental compliance activities with respect to such property or facilities exceed the fair market value of such property or facilities as specified in such certification; or

"(B) the amount by which the costs (as determined by the Secretary) that would otherwise have been incurred by the Secretary for such restoration, management, and activities with respect to such property or facilities exceed the fair market value of such property or facilities as so specified.".

(c) SCOPE OF INDEMNIFICATION OF TRANSFEREES IN CONNECTION WITH PAYMENT OF ENVIRONMENTAL REMEDIATION.—Paragraph (6) of section 2905(e) of that Act, as redesignated by subsection (b)(4), is amended by inserting before the period the following: ", except in the case of releases or threatened releases not disclosed pursuant to paragraph (4)".

**SEC. 3007. TECHNICAL AND CLARIFYING AMENDMENTS.**

(a) RELATIONSHIP TO OTHER BASE CLOSURE AUTHORITY.—Section 2909(a) 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 date of the enactment of this Act and ending on December 31, 1995," and inserting "November 5, 1990, and ending on April 15, 2006,".

(b) COMMENCEMENT OF PERIOD FOR NOTICE OF INTEREST IN PROPERTY FOR HOMELESS.—Section 2905(b)(7)(D)(ii)(I) of that Act is amended by striking "that date" and inserting "the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV)".

(c) COMMITTEE NAME.—That Act is further amended by striking "National Security" and inserting "Armed Services" each place it appears in the following provisions:

(A) Section 2902(e)(2)(B)(ii).

(B) Section 2908(b).

(d) OTHER CLARIFYING AMENDMENTS.—(1) That Act is further amended by inserting "or realignment" after "closure" each place it appears in the following provisions:

(A) Section 2905(b)(3).

(B) Section 2905(b)(5).

(C) Section 2905(b)(7)(B)(iv).

(D) Section 2905(b)(7)(N).

(E) Section 2910(10)(B).

(2) That Act is further amended by inserting "or realigned" after "closed" each place it appears in the following provisions:

(A) Section 2905(b)(3)(C)(ii).

(B) Section 2905(b)(3)(D).

(C) Section 2905(b)(3)(E).

(D) Section 2905(b)(5)(A).

(E) Section 2910(9).

(F) Section 2910(10).

(3) Section 2905(e)(1)(B) of that Act is amended by inserting ", or realigned or to be realigned," after "closed or to be closed".

**SEC. 3008. PREPARATION OF INFRASTRUCTURE PLAN FOR THE NUCLEAR WEAPONS COMPLEX.**

(a) INFRASTRUCTURE PLAN FOR NUCLEAR WEAPONS COMPLEX.—

(1) PREPARATION AND SUBMISSION.—Not later than the date on which the budget for the Department of Energy for fiscal year 2004 is submitted to Congress, the Secretary of Energy shall submit to Congress an infrastructure plan for the nuclear weapons complex adequate to support the nuclear weapons stockpile, the naval reactors program, and nonproliferation and national security activities.

(2) SPECIAL CONSIDERATIONS.—In preparing the infrastructure plan, the Secretary shall take into consideration the following:

(A) The Department of Defense Nuclear Posture Review required pursuant to section 1041 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–262).

(B) Any efficiencies and security benefits of consolidation of facilities of the nuclear weapons complex.

(C) The necessity to have a residual production capability.

(b) RECOMMENDATIONS REGARDING REALIGNMENTS AND CLOSURES.—On the basis of the infrastructure plan prepared under subsection (a), the Secretary shall make such recommendations regarding the need to close or realign facilities of the nuclear weapons complex as the Secretary considers appropriate, including the Secretary's recommendations on whether to establish a process by which a round of closures and realignments would be carried out and any additional legislative authority necessary to implement the recommendations. The Secretary shall submit the recommendations as part of the infrastructure plan under subsection (a).

(c) DEFINITIONS.—In this section:

(1) The terms "Secretary" and "Secretary of Energy" mean the Secretary of Energy, acting after consideration of the recommendations of the Administrator for Nuclear Security.

(2) The term "nuclear weapons complex" means the national security laboratories and nuclear weapons production facilities (as such terms are defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471)) and the facilities of the Naval Nuclear Propulsion Program provided for under the Naval Nuclear Propulsion Executive Order (as such term is defined in section 3216 of such Act (50 U.S.C. 2406)).

# 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

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Sec. 3102. Defense environmental restoration and waste management.
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Sec. 3104. Defense environmental management privatization.
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### Subtitle B—Recurring General Provisions

Sec. 3121. Reprogramming.
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### Subtitle C—Program Authorizations, Restrictions, and Limitations

Sec. 3131. Consolidation of Nuclear Cities Initiative program with Initiatives for Proliferation Prevention program.
Sec. 3132. Nuclear Cities Initiative.
Sec. 3133. Limitation on availability of funds for weapons activities for facilities and infrastructure.
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Sec. 3135. Termination date of Office of River Protection, Richland, Washington.
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### Subtitle D—Matters Relating to Management of the National Nuclear Security Administration

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### Subtitle E—Other Matters

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**Subtitle F—Rocky Flats National Wildlife Refuge**

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Sec. 3179. Property rights.
Sec. 3180. Liabilities and other obligations.
Sec. 3181. Rocky Flats Museum.
Sec. 3182. Annual report on funding.

# Subtitle A—National Security Programs Authorizations

**SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $7,121,094,000, to be allocated as follows:

(1) WEAPONS ACTIVITIES.—For weapons activities, $5,343,567,000, to be allocated as follows:

(A) For stewardship operation and maintenance, $4,601,871,000, to be allocated as follows:

(i) For directed stockpile work, $1,002,274,000.

(ii) For campaigns, $2,074,473,000, to be allocated as follows:

(I) For operation and maintenance, $1,704,501,000.

(II) For construction, $369,972,000, to be allocated as follows:

Project 01–D–101, distributed information systems laboratory, Sandia National Laboratories, Livermore, California, $5,400,000.

Project 00–D–103, terascale simulation facility, Lawrence Livermore National Laboratory, Livermore, California, $22,000,000.

Project 00–D–105, strategic computing complex, Los Alamos National Laboratory, Los Alamos, New Mexico, $11,070,000.

Project 00–D–107, joint computational engineering laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $5,377,000.

Project 98–D–125, tritium extraction facility, Savannah River Plant, Aiken, South Carolina, $81,125,000.

Project 96–D–111, national ignition facility (NIF), Lawrence Livermore National Laboratory, Livermore, California, $245,000,000.

(iii) For readiness in technical base and facilities, $1,525,124,000, to be allocated as follows:

(I) For operation and maintenance, $1,348,260,000.

(II) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $176,864,000, to be allocated as follows:

Project 02–D–103, project engineering and design (PED), various locations, $22,830,000.

Project 02–D–105, engineering technology complex upgrade, Lawrence Livermore National Laboratory, Livermore, California, $4,750,000.

Project 02–D–107, electrical power systems safety communications and bus upgrades, Nevada Test Site, Nevada, $3,507,000.

Project 01–D–101, microsystems and engineering sciences applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico, $39,000,000.

Project 01–D–103, preliminary project design and engineering, various locations, $16,379,000.

Project 01–D–107, Atlas relocation, Nevada Test Site, Nevada, $3,300,000.

Project 01–D–126, weapons evaluation test laboratory, Pantex Plant, Amarillo, Texas, $7,700,000.

Project 01–D–800, sensitive compartmented information facility, Lawrence Livermore National Laboratory, Livermore, California, $12,993,000.

Project 99–D–103, isotope sciences facilities, Lawrence Livermore National Laboratory, Livermore, California, $4,400,000.

Project 99–D–104, protection of real property (roof reconstruction, phase II), Lawrence Livermore National Laboratory, Livermore, California, $2,800,000.

Project 99–D–106, model validation and system certification center, Sandia National Laboratories, Albuquerque, New Mexico, $4,955,000.

Project 99–D–108, renovate existing roadways, Nevada Test Site, Nevada, $2,000,000.

Project 99–D–125, replace boilers and controls, Kansas City Plant, Kansas City, Missouri, $300,000.

Project 99–D–127, stockpile management restructuring initiative, Kansas City plant, Kansas City, Missouri, $22,200,000.

Project 99–D–128, stockpile management restructuring initiative, Pantex Plant, Amarillo, Texas, $3,300,000.

Project 98–D–123, stockpile management restructuring initiative, tritium facility modernization and consolidation, Savannah River Plant, Aiken, South Carolina, $13,700,000.

Project 98–D–124, stockpile management restructuring initiative, Y–12 consolidation, Oak Ridge, Tennessee, $6,850,000.

Project 97–D–123, structural upgrades, Kansas City Plant, Kansas City, Missouri, $3,000,000.

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $2,900,000.

(B) For secure transportation asset, $121,800,000, to be allocated as follows:

(i) For operation and maintenance, $77,571,000.

(ii) For program direction, $44,229,000.

(C) For safeguards and security, $448,881,000, to be allocated as follows:

(i) For operations and maintenance, $439,281,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $9,600,000, to be allocated as follows:

Project 99–D–132, stockpile management restructuring initiative, nuclear material safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,600,000.

(D) For facilities and infrastructure, $200,000,000.

(E) The total amount authorized by this paragraph is the sum of the amounts authorized to be appropriated by subparagraphs (A) through (D), reduced by $28,985,000, to be derived from a security charge for reimbursable work.

(2) DEFENSE NUCLEAR NONPROLIFERATION.—For defense nuclear nonproliferation activities, $776,886,000, to be allocated as follows:

(A) For nonproliferation and verification research and development, $244,306,000, to be allocated as follows:

(i) For operation and maintenance, $208,500,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $35,806,000, to be allocated as follows:

Project 00–D–192, nonproliferation and international security center (NISC), Los Alamos National Laboratory, Los Alamos, New Mexico, $35,806,000.

(B) For arms control and Russian transition initiatives, $117,741,000.

(C) For international materials protection, control, and accounting, $143,800,000.

(D) For highly enriched uranium transparency implementation, $13,950,000.

(E) For international nuclear safety, $10,000,000.

(F) For fissile materials control and disposition, $289,089,000, to be allocated as follows:

(i) For United States surplus fissile materials disposition, $228,089,000, to be allocated as follows:

(I) For operation and maintenance, $130,089,000.

(II) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $98,000,000, to be allocated as follows:

Project 01–D–407, highly enriched uranium blend-down, Savannah River Site, Aiken, South Carolina, $24,000,000.

Project 99–D–141, pit disassembly and conversion facility, Savannah River Site, Aiken, South Carolina, $11,000,000.

Project 99–D–143, mixed oxide fuel fabrication facility, Savannah River Site, Aiken, South Carolina, $63,000,000.

(ii) For Russian surplus fissile materials disposition, $61,000,000.

(G) The total amount authorized by this paragraph is the sum of the amounts authorized to be appropriated by subparagraphs (A) through (F), reduced by $42,000,000, to be derived from offsets and use of prior year balances.

(3) NAVAL REACTORS.—For naval reactors, $688,045,000, to be allocated as follows:

(A) For naval reactors development, $665,445,000, to be allocated as follows:

(i) For operation and maintenance, $652,245,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $13,200,000, to be allocated as follows:

Project 01–D–200, major office replacement building, Schenectady, New York, $9,000,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $4,200,000.

(B) For program direction, $22,600,000.

(4) OFFICE OF ADMINISTRATOR FOR NUCLEAR SECURITY.—For the Office of the Administrator for Nuclear Security, and for program direction for the National Nuclear Security Administration (other than for naval reactors and secure transportation asset), $312,596,000.

**SEC. 3102. DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for environmental restoration and waste management activities in carrying out programs necessary for national security in the amount of $6,022,415,000, to be allocated as follows:

(1) CLOSURE PROJECTS.—For closure projects carried out in accordance with section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836; 42 U.S.C. 7277n), $1,080,538,000.

(2) SITE/PROJECT COMPLETION.—For site completion and project completion in carrying out environmental management activities necessary for national security programs, $959,696,000, to be allocated as follows:

(A) For operation and maintenance, $919,030,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $40,666,000, to be allocated as follows:

Project 01–D–402, Intec cathodic protection system expansion, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $3,256,000.

Project 02–D–420, plutonium stabilization and packaging, Savannah River Site, Aiken, South Carolina, $20,000,000.

Project 01–D–414, preliminary project, engineering and design (PE&D), various locations, $2,754,000.

Project 99–D–402, tank farm support services, F&H areas, Savannah River Site, Aiken, South Carolina, $5,040,000.

Project 99–D–404, health physics instrumentation laboratory, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $2,700,000.

Project 98–D–453, plutonium stabilization and handling system for plutonium finishing plant, Richland, Washington, $1,910,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $4,244,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $762,000.

(3) POST-2006 COMPLETION.—For post-2006 completion in carrying out environmental restoration and waste management activities necessary for national security programs, $3,265,201,000, to be allocated as follows:

(A) For operation and maintenance, $1,955,979,000.

(B) For uranium enrichment decontamination and decommissioning fund contribution, $420,000,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $6,754,000, to be allocated as follows:

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, $6,754,000.

(D) For the Office of River Protection in carrying out environmental restoration and waste management activities necessary for national security programs, $882,468,000, to be allocated as follows:

(i) For operation and maintenance, $322,151,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $560,317,000, to be allocated as follows:

Project 01–D–416, waste treatment and immobilization plant, Richland, Washington, $520,000,000.

Project 97–D–402, tank farm restoration and safe operations, Richland, Washington, $33,473,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $6,844,000.

(4) SCIENCE AND TECHNOLOGY DEVELOPMENT.—For science and technology development in carrying out environmental restoration and waste management activities necessary for national security programs, $216,000,000.

(5) EXCESS FACILITIES.—For excess facilities in carrying out environmental restoration and waste management activities necessary for national security programs, $1,300,000.

(6) SAFEGUARDS AND SECURITY.—For safeguards and security in carrying out environmental restoration and waste management activities necessary for national security programs, $205,621,000.

(7) PROGRAM DIRECTION.—For program direction in carrying out environmental restoration and waste management activities necessary for national security programs, $355,761,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated by subsection (a) is the sum of the amounts authorized to be appropriated by paragraphs (1) through (7) of that subsection, reduced by $61,702,000, of which $56,311,000 is to reflect an offset provided by use of prior year balances and $5,391,000 is to be derived from a security charge for reimbursable work.

**SEC. 3103. OTHER DEFENSE ACTIVITIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for other defense activities in carrying out programs necessary for national security in the amount of $499,663,000, to be allocated as follows:

(1) INTELLIGENCE.—For intelligence, $40,844,000.

(2) COUNTERINTELLIGENCE.—For counterintelligence, $46,000,000.

(3) SECURITY AND EMERGENCY OPERATIONS.—For security and emergency operations, $250,427,000, to be allocated as follows:

(A) For nuclear safeguards and security, $116,500,000.

(B) For security investigations, $44,927,000.

(C) For corporate management information programs, $10,000,000.

(D) For program direction, $79,000,000.

(4) INDEPENDENT OVERSIGHT AND PERFORMANCE ASSURANCE.—For independent oversight and performance assurance, $14,904,000.

(5) OFFICE OF ENVIRONMENT, SAFETY, AND HEALTH.—For the Office of Environment, Safety, and Health, $113,307,000, to be allocated as follows:

(A) For environment, safety, and health (defense), $91,307,000.

(B) For program direction, $22,000,000.

(6) WORKER AND COMMUNITY TRANSITION ASSISTANCE.—For worker and community transition assistance, $20,000,000, to be allocated as follows:

(A) For worker and community transition, $18,000,000.

(B) For program direction, $2,000,000.

(7) OFFICE OF HEARINGS AND APPEALS.—For the Office of Hearings and Appeals, $2,893,000.

(8) NATIONAL SECURITY PROGRAMS ADMINISTRATIVE SUPPORT.—For national security programs administrative support, $22,000,000.

(b) ADJUSTMENT.—The amount authorized to be appropriated pursuant to subsection (a) is the total of the amounts authorized to be appropriated by paragraphs (1) through (8) of that subsection, reduced by $10,712,000, of which $10,000,000 is to reflect an offset provided by use of prior year balances and $712,000 is to be derived from a security charge for reimbursable work.

**SEC. 3104. DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for privatization initiatives in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $153,537,000, to be allocated as follows:

Project 02–PVT–1, Paducah disposal facility, Paducah, Kentucky, $13,329,000.

Project 02–PVT–2, Portsmouth disposal facility, Portsmouth, Ohio, $2,000,000.

Project 98–PVT–2, spent nuclear fuel dry storage, Idaho Falls, Idaho, $49,332,000.

Project 98–PVT–5, environmental management/waste management disposal, Oak Ridge, Tennessee, $26,065,000.

Project 97–PVT–2, advanced mixed waste treatment project, Idaho Falls, Idaho, $52,000,000.

Project 97–PVT–3, transuranic waste treatment, Oak Ridge, Tennessee, $10,826,000.

**SEC. 3105. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 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)) in the amount of $280,000,000.

# Subtitle B—Recurring General Provisions

**SEC. 3121. REPROGRAMMING.**

(a) IN GENERAL.—Except as provided in sections 3129 and 3130, until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year, the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) 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.

(2) 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 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

**SEC. 3122. LIMITS ON MINOR CONSTRUCTION PROJECTS.**

(a) AUTHORITY.—The Secretary of Energy may carry out any minor construction project using operation and maintenance funds, or facilities and infrastructure funds, authorized by this title.

(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 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 this title, the estimated cost of the project is revised and the revised cost of the project exceeds $5,000,000, 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 if the approved total estimated cost of the plant project does not exceed $5,000,000.

**SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.**

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, 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) 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) In the computation of the 30-day period under paragraph (2), there is excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) does not apply to a construction project with a current estimated cost of less than $5,000,000.

**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 this title 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) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title 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) 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 Committees on Armed Services of the Senate and House of Representatives of any transfer of funds to or from authorizations under this title.

**SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.**

(a) REQUIREMENT OF CONCEPTUAL DESIGN.—(1) 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) 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) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a minor construction project the total estimated cost of which is less than $5,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, 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) 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 an authorization in this title, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, under sections 3101, 3102, 3103, and 3104 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 any 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 this title 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), when so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to an authorization

of appropriations in subtitle A shall remain available to be expended only until the end of fiscal year 2003.

**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) Not more than three transfers may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) 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) 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, any of the following:

(A) A program referred to or a project listed in paragraph (2) or (3) of section 3102(a).

(B) A program or project not described in subparagraph (A) 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 before the date of the enactment of this Act.

(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.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 2001, and ending on September 30, 2002.

**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) Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) 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) 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) 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, any of the following:

(A) A program referred to or a project listed in section 3101(1).

(B) A program or project not described in subparagraph (A) 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 before the date of the enactment of this Act.

(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.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 2001, and ending on September 30, 2002.

# Subtitle C—Program Authorizations, Restrictions, and Limitations

**SEC. 3131. CONSOLIDATION OF NUCLEAR CITIES INITIATIVE PROGRAM WITH INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.**

The Administrator for Nuclear Security shall consolidate the Nuclear Cities Initiative program with the Initiatives for Proliferation Prevention program under a single management line.

**SEC. 3132. NUCLEAR CITIES INITIATIVE.**

(a) LIMITATIONS ON USE OF FUNDS.—No funds authorized to be appropriated for the Nuclear Cities Initiative after fiscal year 2001 may be obligated or expended with respect to more than three nuclear cities, or more than two serial production facilities in Russia, until 30 days after the Administrator for Nuclear Security submits to the appropriate congressional committees an agreement signed by the Russian Federation on access under the Nuclear Cities Initiative to the ten closed nuclear cities and four serial production facilities of the Nuclear Cities Initiative.

(b) ANNUAL REPORT.—(1) Not later than the first Monday in February each year, the Administrator shall submit to the appropriate congressional committees a report on financial and programmatic activities with respect to the Nuclear Cities Initiative during the preceding fiscal year.

(2) Each report shall include, for the fiscal year covered by such report, the following:

(A) A list of each project that is or was completed, ongoing, or planned under the Nuclear Cities Initiative during such fiscal year.

(B) For each project listed under subparagraph (A), information, current as of the end of such fiscal year, on the following:

(i) The purpose of such project.

(ii) The budget for such project.

(iii) The life-cycle costs of such project.

(iv) Participants in such project.

(v) The commercial viability of such project.

(vi) The number of jobs in Russia created or to be created by or through such project.

(vii) Of the total amount of funds spent on such project, the percentage of such amount spent in the United States and the percentage of such amount spent overseas.

(C) A certification by the Administrator that each project listed under subparagraph (A) did contribute, is contributing, or will contribute, as the case may be, to the downsizing of the nuclear weapons complex in Russia, together with a description of the evidence utilized to make such certification.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(2) NUCLEAR CITIES INITIATIVE.—The term "Nuclear Cities Initiative" means the initiative arising pursuant to the March 1998 discussion between the Vice President of the United States

and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation.

(3) NUCLEAR CITY.—The term "nuclear city" means any of the nuclear cities within the complex of the Russia Ministry of Atomic Energy (MINATOM) as follows:

(A) Sarov (Arzamas–16 and Avangard).
(B) Zarechnyy (Penza–19).
(C) Novoural'sk (Sverdlovsk–44).
(D) Lesnoy (Sverdlovsk–45).
(E) Ozersk (Chelyabinsk–65).
(F) Snezhinsk (Chelyabinsk–70).
(G) Trechgornyy (Zlatoust–36).
(H) Seversk (Tomsk–7).
(I) Zhelenznogorsk (Krasnoyarsk–26).
(J) Zelenogorsk (Krasnoyarsk–45).

**SEC. 3133. LIMITATION ON AVAILABILITY OF FUNDS FOR WEAPONS ACTIVITIES FOR FACILITIES AND INFRASTRUCTURE.**

Not more than 50 percent of the funds authorized to be appropriated by section 3101(a)(1)(D) for the National Nuclear Security Administration for weapons activities for facilities and infrastructure may be obligated or expended until the Administrator for Nuclear Security submits to the congressional defense committees a report setting forth the following:

(1) Criteria for the selection of projects to be carried out using such funds.

(2) Criteria for establishing priorities among projects so selected.

(3) A list of the projects so selected, including the priority assigned to each such project.

**SEC. 3134. LIMITATION ON AVAILABILITY OF FUNDS FOR OTHER DEFENSE ACTIVITIES FOR NATIONAL SECURITY PROGRAMS ADMINISTRATIVE SUPPORT.**

Not more than $5,000,000 of the funds authorized to be appropriated by section 3103(a)(8) for other defense activities for national security programs administrative support may be obligated or expended until the latest of the following:

(1) The date on which the Secretary of Energy submits to Congress a report setting forth the purposes for which the Secretary plans to obligate and expend such funds.

(2) The date on which the Administrator for Nuclear Security submits to Congress the future-years nuclear security program for fiscal year 2002 required by section 3253 of the National Nuclear Security Administration Act (title XXXII of Public Law 106–65; 50 U.S.C. 2453).

(3) The date on which the Secretary of Energy submits to Congress the report on the feasibility of using an energy savings performance contract mechanism to offset, or possibly cover, the cost of a new office building for the Albuquerque operations office of the Department of Energy, as completed by the Secretary in accordance with the directive contained in Senate Report 106–50 (the report of the Committee on Armed Services of the Senate to accompany the bill S. 1059 of the One Hundred Sixth Congress, relating to the National Defense Authorization Act for Fiscal Year 2000; p. 470).

**SEC. 3135. TERMINATION DATE OF OFFICE OF RIVER PROTECTION, RICHLAND, WASHINGTON.**

Subsection (f) of section 3139 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2250), as amended by section 3141 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–462), is amended to read as follows:

"(f) TERMINATION.—(1) The Office shall terminate on the later to occur of the following dates:

"(A) September 30, 2010.

"(B) The date on which the Assistant Secretary of Energy for Environmental Management determines, in consultation with the head of the Office, that continuation of the Office is no longer necessary to carry out the responsibilities of the Department of Energy under the Tri-Party Agreement.

"(2) The Assistant Secretary shall notify, in writing, the committees referred to in subsection (d) of a determination under paragraph (1).

"(3) In this subsection, the term 'Tri-Party Agreement' means the Hanford Federal Facility Agreement and Consent Order entered into among the Department of Energy, the Environmental Protection Agency, and the State of Washington Department of Ecology.".

**SEC. 3136. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.**

(a) SUPPORT FOR FISCAL 2002.—From amounts appropriated or otherwise made available to the Secretary of Energy by this title—

(1) $6,900,000 shall be available for payment by the Secretary for fiscal year 2002 to the Los Alamos National Laboratory Foundation, a not-for-profit foundation chartered in accordance with section 3167(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2052); and

(2) $8,000,000 shall be available for extension of the contract between the Department of Energy and the Los Alamos Public Schools through fiscal year 2002.

(b) SUPPORT FOR FISCAL 2003.—Subject to the availability of appropriations, the Secretary is authorized to—

(1) make payment for fiscal year 2003 similar to the payment referred to in subsection (a)(1); and

(2) provide for a contract extension through fiscal year 2003 similar to the contract extension referred to in subsection (a)(2).

(c) USE OF FUNDS.—The foundation referred to in subsection (a)(1) shall—

(1) utilize funds provided under this section as a contribution to the endowment fund for the foundation; and

(2) use the income generated from investments in the endowment fund that are attributable to payments made under this section to fund programs to support the educational needs of children in public schools in the vicinity of Los Alamos National Laboratory.

(d) REPORT.—Not later than March 1, 2002, the Secretary shall submit to the congressional defense committees a report setting forth the following:

(1) An evaluation of the requirements for continued payments beyond fiscal year 2003 into the endowment fund of the foundation referred to in subsection (a) to enable the foundation to meet the goals of the Department to support the recruitment and retention of staff at the Los Alamos National Laboratory.

(2) The Secretary's recommendations for any further support beyond fiscal year 2003 directly to the Los Alamos Public Schools.

**SEC. 3137. REPORTS ON ACHIEVEMENT OF MILESTONES FOR NATIONAL IGNITION FACILITY.**

(a) NOTIFICATION OF ACHIEVEMENT.—The Administrator for Nuclear Security shall notify the congressional defense committees when the National Ignition Facility (NIF), Lawrence Livermore National Laboratory, Livermore, California, achieves each Level I milestone and Level II milestone for the National Ignition Facility.

(b) REPORT ON FAILURE OF TIMELY ACHIEVEMENT.—Not later than 10 days after the date on which the National Ignition Facility fails to achieve a Level I milestone or Level II milestone for the National Ignition Facility in a timely manner, the Administrator shall submit to the congressional defense committees a report on such failure. Each such report shall include—

(1) a statement of the failure of the National Ignition Facility to achieve the milestone concerned in a timely manner;

(2) an explanation for the failure; and

(3) either—

(A) an estimate when that milestone will be achieved; or

(B) if that milestone will not be achieved—

(i) a statement that that milestone will not be achieved;

(ii) an explanation why that milestone will not be achieved; and

(iii) the implications for the overall scope, schedule, and budget of the National Ignition Facility project of not achieving that milestone.

(c) MILESTONES.—For purposes of this section, the Level I milestones and Level II milestones for the National Ignition Facility are as established in the August 2000 revised National Ignition Facility baseline document.

(d) TERMINATION.—The requirements of this section shall terminate on September 30, 2004.

# Subtitle D—Matters Relating to Management of the National Nuclear Security Administration

**SEC. 3141. ESTABLISHMENT OF PRINCIPAL DEPUTY ADMINISTRATOR OF NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) ESTABLISHMENT.—Subtitle A of the National Nuclear Security Administration Act (title XXXII of Public Law 106–65; 50 U.S.C. 2401 et seq.) is amended—

(1) by redesignating section 3213 as section 3220 and transferring such section, as so redesignated, to the end of that subtitle; and

(2) by inserting after section 3212 the following new section 3213:

**"SEC. 3213. PRINCIPAL DEPUTY ADMINISTRATOR FOR NUCLEAR SECURITY.**

"(a) IN GENERAL.—(1) There is in the Administration a Principal Deputy Administrator, who is appointed by the President, by and with the advice and consent of the Senate.

"(2) The Principal Deputy Administrator shall be appointed from among persons who have extensive background in organizational management and are well qualified to manage the nuclear weapons, nonproliferation, and materials disposition programs of the Administration in a manner that advances and protects the national security of the United States.

"(b) DUTIES.—Subject to the authority, direction, and control of the Administrator, the Principal Deputy Administrator shall perform such duties and exercise such powers as the Administrator may prescribe, including the coordination of activities among the elements of the Administration. The Principal Deputy Administrator shall act for, and exercise the powers of, the Administrator when the Administrator is disabled or the position of Administrator is vacant.".

(b) PAY LEVEL.—Section 5315 of title 5, United States Code, is amended—

(1) by inserting before the item relating to Deputy Administrators of the National Nuclear Security Administration the following new item:

"Principal Deputy Administrator, National Nuclear Security Administration."; and

(2) by inserting "Additional" before "Deputy Administrators of the National Nuclear Security Administration".

(c) CLERICAL AMENDMENTS.—The table of contents preceding section 3201 of such Act is amended—

(1) by striking the item relating to section 3213 and inserting the following:

"Sec. 3213. Principal Deputy Administrator for National Security.";

and

(2) by inserting after the item relating to section 3218 the following new items:

"Sec. 3219. Scope of authority of Secretary of Energy to modify organization of Administration.

"Sec. 3220. Status of Administration and contractor personnel within Department of Energy.".

**SEC. 3142. ELIMINATION OF REQUIREMENT THAT NATIONAL SECURITY LABORATORIES AND NUCLEAR WEAPONS PRODUCTION FACILITIES REPORT TO DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS.**

Section 3214 of the National Nuclear Security Administration Act (title XXXII of Public Law 106–65; 113 Stat. 959; 50 U.S.C. 2404) is amended by striking subsection (c).

**SEC. 3143. REPEAL OF DUPLICATIVE PROVISION RELATING TO DUAL OFFICE HOLDING BY PERSONNEL OF NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

Section 3245 of the National Nuclear Security Administration Act (50 U.S.C. 2443), as added by section 315 of the Energy and Water Development Appropriations Act, 2001 (as enacted into law by Public Law 106–377; 114 Stat. 1441B–23), is repealed.

**SEC. 3144. REPORT ON ADEQUACY OF FEDERAL PAY AND HIRING AUTHORITIES TO MEET PERSONNEL REQUIREMENTS OF NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) REPORT REQUIRED.—Not later than March 1, 2002, the Administrator for Nuclear Security shall submit to the congressional committees specified in subsection (b) a report on the adequacy of Federal pay and hiring authorities to meet the personnel requirements of the National Nuclear Security Administration. The report shall include the following:

(1) A description of the Federal pay and hiring authorities available to the Administrator.

(2) A description of the Federal pay and hiring authorities that are not available to the Administrator, and an explanation why such authorities are not available.

(3) If any Federal pay and hiring authorities referred to in paragraph (1) are not being used, an explanation why such authorities are not being used.

(4) An assessment of whether or not existing Federal pay and hiring authorities are adequate or inadequate to meet the personnel requirements of the Administration.

(5) Any recommendations that the Administrator considers appropriate for modifications or enhancements of existing Federal pay and hiring authorities in order to meet the personnel requirements of the Administration.

(6) Any recommendations that the Administrator considers appropriate for new Federal pay and hiring authorities in order to meet the personnel requirements of the Administration.

(7) A plan for structuring the pay and hiring authorities with respect to the Federal workforce of the Administration so to ensure that such workforce meets applicable requirements of the most current five-year program plan for the Administration.

(b) SPECIFIED COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

(1) The Committee on Armed Services and the Committee on Governmental Affairs of the Senate.

(2) The Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

# Subtitle E—Other Matters

**SEC. 3151. IMPROVEMENTS TO ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.**

(a) AMENDMENTS TO ENERGY EMPLOYEES PROGRAM.—The Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI 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–394); 42 U.S.C. 7384 et seq.) is amended as follows:

(1) CERTAIN LEUKEMIA AS SPECIFIED CANCER.—Section 3621(17) (114 Stat. 1654A–502; 42 U.S.C. 7384l(17)), as amended by section 2403 of the Supplemental Appropriations Act, 2001 (Public Law 107–20; 115 Stat. 175), is further amended by adding at the end the following new subparagraph:

"(D) Leukemia (other than chronic lymphocytic leukemia), if initial occupational exposure occurred before 21 years of age and onset occurred more than two years after initial occupational exposure.".

(2) ADDITIONAL MEMBERS OF SPECIAL EXPOSURE COHORT.—Section 3626(b) (114 Stat. 1654A–505; 42 U.S.C. 7384q(b)) is amended in the matter preceding paragraph (1) by inserting after "Department of Energy facility" the following: ", or at an atomic weapons employer facility,".

(3) ESTABLISHMENT OF CHRONIC SILICOSIS.—Section 3627(e)(2)(A) (114 Stat. 1654A–506; 42 U.S.C. 7384r(e)(2)(A)) is amended by striking "category 1/1" and inserting "category 1/0".

(4) SURVIVORS.—

(A) Section 3628(e) (114 Stat. 1654A–506; 42 U.S.C. 7384s(e)) is amended to read as follows:

"(e) PAYMENTS IN THE CASE OF DECEASED PERSONS.—(1) In the case of a covered employee who is deceased at the time of payment of compensation under this section, whether or not the death is the result of the covered employee's occupational illness, such payment may be made only as follows:

"(A) If the covered employee is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

"(B) If there is no surviving spouse described in subparagraph (A), such payment shall be made in equal shares to all children of the covered employee who are living at the time of payment.

"(C) If there is no surviving spouse described in subparagraph (A) and if there are no children described in subparagraph (B), such payment shall be made in equal shares to the parents of the covered employee who are living at the time of payment.

"(D) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B) or parents described in subparagraph (C), such payment shall be made in equal shares to all grandchildren of the covered employee who are living at the time of payment.

"(E) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B), parents described in subparagraph (C), or grandchildren described in subparagraph (D), then such payment shall be made in equal shares to the grandparents of the covered employee who are living at the time of payment.

"(F) Notwithstanding the other provisions of this paragraph, if there is—

"(i) a surviving spouse described in subparagraph (A); and

"(ii) at least one child of the covered employee who is living and a minor at the time of payment and who

is not a recognized natural child or adopted child of such surviving spouse,

then half of such payment shall be made to such surviving spouse, and the other half of such payment shall be made in equal shares to each child of the covered employee who is living and a minor at the time of payment.

"(2) If a covered employee eligible for payment dies before filing a claim under this title, a survivor of that employee who may receive payment under paragraph (1) may file a claim for such payment.

"(3) For purposes of this subsection—

"(A) the 'spouse' of an individual is a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

"(B) a 'child' includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

"(C) a 'parent' includes fathers and mothers through adoption;

"(D) a 'grandchild' of an individual is a child of a child of that individual; and

"(E) a 'grandparent' of an individual is a parent of a parent of that individual.".

(B) Section 3630(e) (114 Stat. 1654A–507; 42 U.S.C. 7384u(e)) is amended to read as follows:

"(e) PAYMENTS IN THE CASE OF DECEASED PERSONS.—(1) In the case of a covered employee who is deceased at the time of payment of compensation under this section, whether or not the death is the result of the covered employee's occupational illness, such payment may be made only as follows:

"(A) If the covered employee is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

"(B) If there is no surviving spouse described in subparagraph (A), such payment shall be made in equal shares to all children of the covered employee who are living at the time of payment.

"(C) If there is no surviving spouse described in subparagraph (A) and if there are no children described in subparagraph (B), such payment shall be made in equal shares to the parents of the covered employee who are living at the time of payment.

"(D) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B) or parents described in subparagraph (C), such payment shall be made in equal shares to all grandchildren of the covered employee who are living at the time of payment.

"(E) If there is no surviving spouse described in subparagraph (A), and if there are no children described in subparagraph (B), parents described in subparagraph (C), or grandchildren described in subparagraph (D), then such payment shall be made in equal shares to the grandparents of the covered employee who are living at the time of payment.

"(F) Notwithstanding the other provisions of this paragraph, if there is—

"(i) a surviving spouse described in subparagraph (A); and

"(ii) at least one child of the covered employee who is living and a minor at the time of payment and who is not a recognized natural child or adopted child of such surviving spouse,

then half of such payment shall be made to such surviving spouse, and the other half of such payment shall be made in equal shares to each child of the covered employee who is living and a minor at the time of payment.

"(2) If a covered employee eligible for payment dies before filing a claim under this title, a survivor of that employee who may receive payment under paragraph (1) may file a claim for such payment.

"(3) For purposes of this subsection—

"(A) the 'spouse' of an individual is a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

"(B) a 'child' includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

"(C) a 'parent' includes fathers and mothers through adoption;

"(D) a 'grandchild' of an individual is a child of a child of that individual; and

"(E) a 'grandparent' of an individual is a parent of a parent of that individual.".

(C) Paragraph (18) of section 3621 (114 Stat. 1654A–502; 42 U.S.C. 7384l) is repealed.

(D) The amendments made by this paragraph shall take effect on July 1, 2001.

(5) ELECTION OF REMEDIES.—Section 3645 (114 Stat. 1654A–510; 42 U.S.C. 7385d) is amended by amending subsections (a) through (d) to read as follows:

"(a) EFFECT OF TORT CASES FILED BEFORE ENACTMENT OF ORIGINAL LAW.—(1) Except as provided in paragraph (2), if an otherwise eligible individual filed a tort case specified in subsection (d) before October 30, 2000, such individual shall be eligible for compensation and benefits under subtitle B.

"(2) If such tort case remained pending as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, and such individual does not dismiss such tort case before December 31, 2003, such individual shall not be eligible for such compensation or benefits.

"(b) EFFECT OF TORT CASES FILED BETWEEN ENACTMENT OF ORIGINAL LAW AND ENACTMENT OF 2001 AMENDMENTS.—(1) Except as provided in paragraph (2), if an otherwise eligible individual filed a tort case specified in subsection (d) during the period beginning on October 30, 2000, and ending on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, such individual shall not be eligible for such compensation or benefits.

"(2) If such individual dismisses such tort case on or before the last permissible date specified in paragraph (3), such individual shall be eligible for such compensation or benefits.

"(3) The last permissible date referred to in paragraph (2) is the later of the following dates:

"(A) April 30, 2003.

"(B) The date that is 30 months after the date the individual first becomes aware that an illness covered by subtitle B of a covered employee may be connected to the exposure of the covered employee in the performance of duty under section 3623.

"(c) EFFECT OF TORT CASES FILED AFTER ENACTMENT OF 2001 AMENDMENTS.—(1) If an otherwise eligible individual files a tort case specified in subsection (d) after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002, such individual shall not be eligible for such compensation or benefits if a final court decision is entered against such individual in such tort case.

"(2) If such a final court decision is not entered, such individual shall nonetheless not be eligible for such compensation or benefits, except as follows: If such individual dismisses such tort case on or before the last permissible date specified in paragraph (3), such individual shall be eligible for such compensation and benefits.

"(3) The last permissible date referred to in paragraph (2) is the later of the following dates:

"(A) April 30, 2003.

"(B) The date that is 30 months after the date the individual first becomes aware that an illness covered by subtitle B of a covered employee may be connected to the exposure of the covered employee in the performance of duty under section 3623.

"(d) COVERED TORT CASES.—A tort case specified in this subsection is a tort case alleging a claim referred to in section 3643 against a beryllium vendor or atomic weapons employer.".

(6) ATTORNEY FEES.—Section 3648 (114 Stat. 1654A–511; 42 U.S.C. 7385g) is amended—

(A) in subsection (a), by inserting after "the claim of an individual" the following: "for payment of lump-sum compensation";

(B) in subsection (b)(1), by inserting after "initial claim" the following: "for payment of lump-sum compensation";

(C) in subsection (b)(2), by striking "with respect to any claim" and all that follows through the period at the end and inserting "with respect to objections to a recommended decision denying payment of lump-sum compensation.";

(D) by redesignating subsection (c) as subsection (d); and

(E) by inserting after subsection (b) the following new subsection (c):

"(c) INAPPLICABILITY TO OTHER SERVICES.—This section shall not apply with respect to services rendered that are not in connection with such a claim for payment of lump-sum compensation.".

(b) STUDY OF RESIDUAL CONTAMINATION OF FACILITIES.—(1) The National Institute for Occupational Safety and Health shall, with the cooperation of the Department of Energy and the Department of Labor, carry out a study on the following matters:

(A) Whether or not significant contamination remained in any atomic weapons employer facility or facility of a beryllium vendor after such facility discontinued activities relating to the production of nuclear weapons.

(B) If so, whether or not such contamination could have caused or substantially contributed to the cancer of a covered

employee with cancer or a covered beryllium illness, as the case may be.

(2)(A) The National Institute for Occupational Safety and Health shall submit to the applicable congressional committees the following reports:

(i) Not later than 180 days after the date of the enactment of this Act, a report on the progress made as of the date of the report on the study required by paragraph (1).

(ii) Not later than one year after the date of the enactment of this Act, a final report on the study required by paragraph (1).

(B) In this paragraph, the term "applicable congressional committees" means—

(i) the Committee on Armed Services, Committee on Appropriations, Committee on the Judiciary, and Committee on Health, Education, Labor, and Pensions of the Senate; and

(ii) the Committee on Armed Services, Committee on Appropriations, Committee on the Judiciary, and Committee on Education and the Workforce of the House of Representatives.

(3) Amounts for the study under paragraph (1) shall be derived from amounts authorized to be appropriated by section 3614(a) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (114 Stat. 1654A–498).

(4) In this subsection:

(A) The terms "atomic weapons employer facility", "beryllium vendor", "covered employee with cancer", and "covered beryllium illness" have the meanings given those terms in section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (114 Stat. 1654A–498; 42 U.S.C. 7384l).

(B) The term "contamination" means the presence of any—

(i) material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling; or

(ii) beryllium dust, particles, or vapor,

exposure to which could cause or substantially contribute to the cancer of a covered employee with cancer or a covered beryllium illness, as the case may be.

**SEC. 3152. DEPARTMENT OF ENERGY COUNTERINTELLIGENCE POLYGRAPH PROGRAM.**

(a) NEW COUNTERINTELLIGENCE POLYGRAPH PROGRAM REQUIRED.—The Secretary of Energy shall carry out, under regulations prescribed under this section, a new counterintelligence polygraph program for the Department of Energy. The purpose of the new program is to minimize the potential for release or disclosure of classified data, materials, or information.

(b) AUTHORITIES AND LIMITATIONS.—(1) The Secretary shall prescribe regulations for the new counterintelligence polygraph program required by subsection (a) in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(2) In prescribing regulations for the new program, the Secretary shall take into account the results of the Polygraph Review.

(3) Not later than six months after obtaining the results of the Polygraph Review, the Secretary shall issue a notice of proposed rulemaking for the new program.

(c) REPEAL OF EXISTING POLYGRAPH PROGRAM.—Effective 30 days after the Secretary submits to the congressional defense committees the Secretary's certification that the final rule for the new counterintelligence polygraph program required by subsection (a) has been fully implemented, section 3154 of the Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999 (subtitle D of title XXXI of Public Law 106–65; 42 U.S.C. 7383h) is repealed.

(d) REPORT ON FURTHER ENHANCEMENT OF PERSONNEL SECURITY PROGRAM.—(1) Not later than January 1, 2003, the Administrator for Nuclear Security shall submit to Congress a report setting forth the recommendations of the Administrator for any legislative action that the Administrator considers appropriate in order to enhance the personnel security program of the Department of Energy.

(2) Any recommendations under paragraph (1) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

(e) POLYGRAPH REVIEW DEFINED.—In this section, the term "Polygraph Review" means the review of the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

**SEC. 3153. ONE-YEAR EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

(a) IN GENERAL.—Section 3161(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 942; 5 U.S.C. 5597 note) is amended by striking "January 1, 2003" and inserting "January 1, 2004".

(b) CONSTRUCTION.—The amendment made by subsection (a) may be superseded by another provision of law that takes effect after the date of the enactment of this Act, and before January 1, 2004, establishing a uniform system for providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.

**SEC. 3154. ANNUAL ASSESSMENT AND REPORT ON VULNERABILITY OF DEPARTMENT OF ENERGY FACILITIES TO TERRORIST ATTACK.**

(a) IN GENERAL.—Part C of title VI of the Department of Energy Organization Act (42 U.S.C. 7251 et seq.) is amended by adding at the end the following new section:

"ANNUAL ASSESSMENT AND REPORT ON VULNERABILITY OF FACILITIES TO TERRORIST ATTACK

"SEC. 663. (a) The Secretary shall, on an annual basis, conduct a comprehensive assessment of the vulnerability of Department facilities to terrorist attack.

"(b) Not later than January 31 each year, the Secretary shall submit to Congress a report on the assessment conducted under subsection (a) during the preceding year. Each report shall include the results of the assessment covered by such report, together with such findings and recommendations as the Secretary considers appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that Act is amended by inserting after the item relating to section 662 the following new item:

"Sec. 663. Annual assessment and report on vulnerability of facilities to terrorist attack.".

**SEC. 3155. DISPOSITION OF SURPLUS DEFENSE PLUTONIUM AT SAVANNAH RIVER SITE, AIKEN, SOUTH CAROLINA.**

(a) CONSULTATION REQUIRED.—The Secretary of Energy shall consult with the Governor of the State of South Carolina regarding any decisions or plans of the Secretary related to the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, Aiken, South Carolina.

(b) NOTICE REQUIRED.—For each shipment of defense plutonium or defense plutonium materials to the Savannah River Site, the Secretary shall, not less than 30 days before the commencement of such shipment, submit to the congressional defense committees a report providing notice of such shipment.

(c) PLAN FOR DISPOSITION.—The Secretary shall prepare a plan for disposal of the surplus defense plutonium and defense plutonium materials currently located at the Savannah River Site and for disposal of defense plutonium and defense plutonium materials to be shipped to the Savannah River Site in the future. The plan shall include the following:

(1) A review of each option considered for such disposal.

(2) An identification of the preferred option for such disposal.

(3) With respect to the facilities for such disposal that are required by the Department of Energy's Record of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement dated January 14, 1997—

(A) a statement of the cost of construction and operation of such facilities;

(B) a schedule for the expeditious construction of such facilities, including milestones; and

(C) a firm schedule for funding the cost of such facilities.

(4) A specification of the means by which all such defense plutonium and defense plutonium materials will be removed in a timely manner from the Savannah River Site for storage or disposal elsewhere.

(d) PLAN FOR ALTERNATIVE DISPOSITION.—If the Secretary determines not to proceed at the Savannah River Site with construction of the plutonium immobilization plant, or with the mixed oxide fuel fabrication facility, the Secretary shall prepare a plan that identifies a disposition path for all defense plutonium and defense plutonium materials that would otherwise have been disposed of at such plant or such facility, as applicable.

(e) SUBMISSION OF PLANS.—Not later than February 1, 2002, the Secretary shall submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable).

(f) LIMITATION ON PLUTONIUM SHIPMENTS.—If the Secretary does not submit to Congress the plan required by subsection (c) (and the plan prepared under subsection (d), if applicable) by February 1, 2002, the Secretary shall be prohibited from shipping

defense plutonium or defense plutonium materials to the Savannah River Site during the period beginning on February 1, 2002, and ending on the date on which such plans are submitted to Congress.

(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit or limit the Secretary from shipping defense plutonium or defense plutonium materials to sites other than the Savannah River Site during the period referred to in subsection (f) or any other period.

(h) ANNUAL REPORT ON FUNDING FOR FISSILE MATERIALS DISPOSITION ACTIVITIES.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report setting forth the extent to which amounts requested for the Department for such fiscal year for fissile materials disposition activities will enable the Department to meet commitments for the disposition of surplus defense plutonium and defense plutonium materials located at the Savannah River Site, and for any other fissile materials disposition activities, in such fiscal year.

**SEC. 3156. MODIFICATION OF DATE OF REPORT OF PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE.**

Section 3159(d) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 42 U.S.C. 2121 note) is amended by striking "of each year, beginning with 1999," and inserting "of 1999 and 2000, and not later than February 1, 2002,".

# Subtitle F—Rocky Flats National Wildlife Refuge

**SEC. 3171. SHORT TITLE.**

This subtitle may be cited as the "Rocky Flats National Wildlife Refuge Act of 2001".

**SEC. 3172. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) The Federal Government, through the Atomic Energy Commission, acquired the Rocky Flats site in 1951 and began operations there in 1952. The site remains a Department of Energy facility. Since 1992, the mission of the Rocky Flats site has changed from the production of nuclear weapons components to cleanup and closure in a manner that is safe, environmentally and socially responsible, physically secure, and cost-effective.

(2) The majority of the Rocky Flats site has generally remained undisturbed since its acquisition by the Federal Government.

(3) The State of Colorado is experiencing increasing growth and development, especially in the metropolitan Denver Front Range area in the vicinity of the Rocky Flats site. That growth and development reduces the amount of open space and thereby diminishes for many metropolitan Denver communities the vistas of the striking Front Range mountain backdrop.

(4) Some areas of the Rocky Flats site contain contamination and will require further response action. The national interest requires that the ongoing cleanup and closure of the entire site be completed safely, effectively, and without unnecessary delay and that the site thereafter be retained by the United States and managed so as to preserve the value of the site for open space and wildlife habitat.

(5) The Rocky Flats site provides habitat for many wildlife species, including a number of threatened and endangered species, and is marked by the presence of rare xeric tallgrass prairie plant communities. Establishing the site as a unit of the National Wildlife Refuge System will promote the preservation and enhancement of those resources for present and future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide for the establishment of the Rocky Flats site as a national wildlife refuge following cleanup and closure of the site;

(2) to create a process for public input on the management of the refuge referred to in paragraph (1) before transfer of administrative jurisdiction to the Secretary of the Interior; and

(3) to ensure that the Rocky Flats site is thoroughly and completely cleaned up.

**SEC. 3173. DEFINITIONS.**

In this subtitle:

(1) CERCLA.—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) CLEANUP AND CLOSURE.—The term "cleanup and closure" means the response actions for covered substances carried out at Rocky Flats, as required by any of the following:

(A) The RFCA.

(B) CERCLA.

(C) RCRA.

(D) The Colorado Hazardous Waste Act, 25–15–101 to 25–15–327, Colorado Revised Statutes.

(3) COVERED SUBSTANCE.—The term "covered substance" means any of the following:

(A) Any hazardous substance, as such term is defined in paragraph (14) of section 101 of CERCLA (42 U.S.C. 9601).

(B) Any pollutant or contaminant, as such term is defined in paragraph (33) of such section 101.

(C) Any petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of such section 101.

(4) RCRA.—The term "RCRA" means the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), popularly known as the Resource Conservation and Recovery Act.

(5) REFUGE.—The term "refuge" means the Rocky Flats National Wildlife Refuge established under section 3177.

(6) RESPONSE ACTION.—The term "response action" means any of the following:

(A) A response, as such term is defined in paragraph (25) of section 101 of CERCLA (42 U.S.C. 9601).

(B) A corrective action under RCRA or under the Colorado Hazardous Waste Act, 25–15–101 to 25–15–327, Colorado Revised Statutes.

(C) Any requirement for institutional controls imposed by any of the laws referred to in subparagraph (A) or (B).

(7) RFCA.—The term "RFCA" means the Rocky Flats Cleanup Agreement, an intergovernmental agreement, dated July 19, 1996, among—

(A) the Department of Energy;

(B) the Environmental Protection Agency; and

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

(8) ROCKY FLATS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "Rocky Flats" means the Rocky Flats Environmental Technology Site, Colorado, a defense nuclear facility, as depicted on the map titled "Rocky Flats Environmental Technology Site", dated October 22, 2001, and available for inspection in the appropriate offices of the United States Fish and Wildlife Service.

(B) EXCLUSIONS.—The term "Rocky Flats" does not include—

(i) the land and facilities of the Department of Energy's National Renewable Energy Laboratory, including the acres retained by the Secretary under section 3174(f); and

(ii) any land and facilities not within the boundaries depicted on the map referred to in subparagraph (A).

(9) SECRETARY.—The term "Secretary" means the Secretary of Energy.

**SEC. 3174. FUTURE OWNERSHIP AND MANAGEMENT.**

(a) FEDERAL OWNERSHIP.—Except as expressly provided in this subtitle, all right, title, and interest of the United States, held on or acquired after the date of the enactment of this Act, to land or interest therein, including minerals, within the boundaries of Rocky Flats shall be retained by the United States.

(b) LINDSAY RANCH.—The structures that comprise the former Lindsay Ranch homestead site in the Rock Creek Reserve area of the buffer zone, as depicted on the map referred to in section 3173(8)(A), shall be permanently preserved and maintained in accordance with the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(c) PROHIBITION ON ANNEXATION.—Neither the Secretary nor the Secretary of the Interior shall allow the annexation of land within the refuge by any unit of local government.

(d) PROHIBITION ON THROUGH ROADS.—Except as provided in subsection (e), no public road shall be constructed through Rocky Flats.

(e) TRANSPORTATION RIGHT-OF-WAY.—

(1) IN GENERAL.—

(A) AVAILABILITY OF LAND.—On submission of an application meeting each of the conditions specified in paragraph (2), the Secretary, in consultation with the Secretary of the Interior, shall make available land along the eastern boundary of Rocky Flats for the sole purpose of transportation improvements along Indiana Street.

(B) BOUNDARIES.—Land made available under this paragraph may not extend more than 300 feet from the west edge of the Indiana Street right-of-way, as that right-of-way exists as of the date of the enactment of this Act.

(C) EASEMENT OR SALE.—Land may be made available under this paragraph by easement or sale to one or more appropriate entities.

(D) COMPLIANCE WITH APPLICABLE LAW.—Any action under this paragraph shall be taken in compliance with applicable law.

(2) CONDITIONS.—An application referred to in paragraph (1) meets the conditions specified in this paragraph if the application—

(A) is submitted by any county, city, or other political subdivision of the State of Colorado; and

(B) includes documentation demonstrating that the transportation improvements for which the land is to be made available—

(i) are carried out so as to minimize adverse effects on the management of Rocky Flats as a wildlife refuge; and

(ii) are included in the regional transportation plan of the metropolitan planning organization designated for the Denver metropolitan area under section 5303 of title 49, United States Code.

(f) WIND TECHNOLOGY EXPANSION AREA.—The Secretary shall retain, for the use of the National Renewable Energy Laboratory, the approximately 25 acres identified on the map referred to in section 3173(8)(A) as the "Wind Technology Expansion Area".

**SEC. 3175. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ROCKY FLATS.**

(a) TRANSFER REQUIRED.—

(1) IN GENERAL.—Subject to the other provisions of this section, the Secretary shall transfer administrative jurisdiction over the property that is to comprise the refuge to the Secretary of the Interior.

(2) DATE OF TRANSFER.—The transfer shall be carried out not earlier than the completion certification date, and not later than 30 business days after that date.

(3) COMPLETION CERTIFICATION DATE.—For purposes of paragraph (2), the completion certification date is the date on which the Administrator of the Environmental Protection Agency certifies to the Secretary and to the Secretary of the Interior that cleanup and closure at Rocky Flats has been completed, except for the operation and maintenance associated with response actions, and that all response actions are operating properly and successfully.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) REQUIRED ELEMENTS.—The transfer required by subsection (a) shall be carried out pursuant to a memorandum

of understanding between the Secretary and the Secretary of the Interior. The memorandum of understanding shall—

(A) provide for the division of responsibilities between the Secretary and the Secretary of the Interior necessary to carry out such transfer;

(B) address the impacts that any property rights referred to in section 3179(a) may have on the management of the refuge, and provide strategies for resolving or mitigating these impacts;

(C) identify the land the administrative jurisdiction of which is to be transferred to the Secretary of the Interior; and

(D) specify the allocation of the Federal costs incurred at the refuge after the date of such transfer for any site investigations, response actions, and related activities for covered substances.

(2) PUBLICATION OF DRAFT.—Not later than one year after the date of the enactment of this Act, the Secretary and the Secretary of the Interior shall publish in the Federal Register a draft of the memorandum of understanding.

(3) FINALIZATION AND IMPLEMENTATION.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary and Secretary of the Interior shall finalize and implement the memorandum of understanding.

(B) In finalizing the memorandum of understanding, the Secretary and Secretary of the Interior shall specifically identify the land the administrative jurisdiction of which is to be transferred to the Secretary of the Interior and provide for a determination of the exact acreage and legal description of such land by a survey mutually satisfactory to the Secretary and the Secretary of the Interior.

(c) TRANSFER OF IMPROVEMENTS.—The transfer required by subsection (a) may include such buildings or other improvements as the Secretary of the Interior has requested in writing for purposes of managing the refuge.

(d) PROPERTY RETAINED FOR RESPONSE ACTIONS.—

(1) IN GENERAL.—The transfer required by subsection (a) shall not include, and the Secretary shall retain jurisdiction, authority, and control over, the following real property and facilities at Rocky Flats:

(A) Any engineered structure, including caps, barrier walls, and monitoring or treatment wells, to be used in carrying out a response action for covered substances.

(B) Any real property or facility to be used for any other purpose relating to a response action or any other action that is required to be carried out by the Secretary at Rocky Flats.

(2) CONSULTATION.—The Secretary shall consult with the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Governor of the State of Colorado on the identification of all real property and facilities to be retained under this subsection.

(e) COST.—The transfer required by subsection (a) shall be completed without cost to the Secretary of the Interior.

(f) NO REDUCTION IN FUNDS.—The transfer required by subsection (a), and the memorandum of understanding required by

subsection (b), shall not result in any reduction in funds available to the Secretary for cleanup and closure of Rocky Flats.

**SEC. 3176. ADMINISTRATION OF RETAINED PROPERTY; CONTINUATION OF CLEANUP AND CLOSURE.**

(a) ADMINISTRATION OF RETAINED PROPERTY.—

(1) IN GENERAL.—In administering the property retained under section 3175(d), the Secretary shall consult with the Secretary of the Interior to minimize any conflict between—

(A) the administration by the Secretary of such property for a purpose relating to a response action; and

(B) the administration by the Secretary of the Interior of land the administrative jurisdiction of which is transferred under section 3175(a).

(2) PRIORITY IN CASE OF CONFLICT.—In the case of any such conflict, the Secretary and the Secretary of the Interior shall ensure that the administration for a purpose relating to a response action, as described in paragraph (1)(A), shall take priority.

(3) ACCESS.—The Secretary of the Interior shall provide to the Secretary such access and cooperation with respect to the refuge as the Secretary requires to carry out operation and maintenance, future response actions, natural resources restoration, or any other obligations.

(b) ONGOING CLEANUP AND CLOSURE.—

(1) IN GENERAL.—The Secretary shall carry out to completion cleanup and closure at Rocky Flats.

(2) CLEANUP LEVELS.—The Secretary shall carry out such cleanup and closure to the levels established for soil, water, and other media, following a thorough review by the parties to the RFCA and the public (including the United States Fish and Wildlife Service and other interested government agencies) of the appropriateness of the interim levels in the RFCA.

(3) NO RESTRICTION ON USE OF NEW TECHNOLOGIES.—Nothing in this subtitle, and no action taken under this subtitle, restricts the Secretary from using at Rocky Flats any new technology that may become available for remediation of contamination.

(c) OPPORTUNITY TO COMMENT.—The Secretary of the Interior shall have the opportunity to comment with respect to any proposed response action as to the impacts, if any, of such proposed response action on the refuge.

(d) RULES OF CONSTRUCTION.—

(1) NO RELIEF FROM OBLIGATIONS UNDER OTHER LAW.—Nothing in this subtitle, and no action taken under this subtitle—

(A) relieves the Secretary, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, or any other person from any obligation or other liability with respect to Rocky Flats under the RFCA or any Federal or State law;

(B) impairs or alters any provision of the RFCA; or

(C) alters any authority of the Administrator of the Environmental Protection Agency under section 120(e) of CERCLA (42 U.S.C. 9620(e)), or any authority of the State of Colorado.

(2) CLEANUP LEVELS.—Nothing in this subtitle shall reduce the level of cleanup and closure at Rocky Flats required under the RFCA or any Federal or State law.

(3) PAYMENT OF RESPONSE ACTION COSTS.—Nothing in this subtitle affects the obligation of a Federal department or agency that had or has operations at Rocky Flats resulting in the release or threatened release of a covered substance to pay the costs of response actions carried out to abate the release of, or clean up, the covered substance.

**SEC. 3177. ROCKY FLATS NATIONAL WILDLIFE REFUGE.**

(a) IN GENERAL.—On completion of the transfer required by section 3175(a), and subject to section 3176(a), the Secretary of the Interior shall commence administration of the real property comprising the refuge in accordance with this subtitle.

(b) ESTABLISHMENT OF REFUGE.—Not later than 30 days after the transfer required by section 3175(a), the Secretary of the Interior shall establish at Rocky Flats a national wildlife refuge to be known as the Rocky Flats National Wildlife Refuge.

(c) COMPOSITION.—The refuge shall be comprised of the property the administrative jurisdiction of which was transferred as required by section 3175(a).

(d) NOTICE.—The Secretary of the Interior shall publish in the Federal Register a notice of the establishment of the refuge.

(e) ADMINISTRATION AND PURPOSES.—

(1) IN GENERAL.—The Secretary of the Interior shall manage the refuge in accordance with applicable law, including this subtitle, the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), and the purposes specified in that Act.

(2) REFUGE PURPOSES.—The refuge shall be managed for the purposes of—

(A) restoring and preserving native ecosystems;

(B) providing habitat for, and population management of, native plants and migratory and resident wildlife;

(C) conserving threatened and endangered species (including species that are candidates for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)); and

(D) providing opportunities for compatible scientific research.

(3) MANAGEMENT.—In managing the refuge, the Secretary of the Interior shall—

(A) ensure that wildlife-dependent recreation and environmental education and interpretation are the priority public uses of the refuge; and

(B) comply with all response actions.

**SEC. 3178. COMPREHENSIVE PLANNING PROCESS.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, in developing a comprehensive conservation plan for the refuge in accordance with section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(e)), the Secretary of the Interior shall establish a comprehensive planning process that involves the public and local communities. The Secretary of the Interior shall establish such process in consultation with the Secretary, the members of the Coalition, the Governor of the State of Colorado, and the Federal

and State of Colorado officials who have been designated as trustees for Rocky Flats under section 107(f)(2) of CERCLA (42 U.S.C. 9607(f)(2)).

(b) OTHER PARTICIPANTS.—In addition to the entities specified in subsection (a), the comprehensive planning process required by subsection (a) shall include the opportunity for direct involvement of entities that are not members of the Coalition as of the date of the enactment of this Act, including the Rocky Flats Citizens' Advisory Board and the cities of Thornton, Northglenn, Golden, Louisville, and Lafayette, Colorado.

(c) DISSOLUTION OF COALITION.—If the Coalition dissolves, or if any Coalition member elects to leave the Coalition during the comprehensive planning process required by subsection (a)—

(1) such comprehensive planning process shall continue; and

(2) an opportunity shall be provided to each entity that is a member of the Coalition as of September 1, 2000, for direct involvement in such comprehensive planning process.

(d) CONTENTS.—In addition to the requirements of section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(e)), the comprehensive conservation plan referred to in subsection (a) shall address and make recommendations on the following:

(1) The identification of any land referred to in subsection (e) of section 3174 that could be made available under that subsection.

(2) The characteristics and configuration of any perimeter fencing that may be appropriate or compatible for cleanup and closure purposes, refuge purposes, or other purposes.

(3) The feasibility of locating, and the potential location for, a visitor and education center at the refuge.

(4) Any other issues relating to Rocky Flats.

(e) COALITION DEFINED.—In this section, the term "Coalition" means the Rocky Flats Coalition of Local Governments established by the Intergovernmental Agreement, dated February 16, 1999, among—

(1) the city of Arvada, Colorado;

(2) the city of Boulder, Colorado;

(3) the city of Broomfield, Colorado;

(4) the city of Westminster, Colorado;

(5) the town of Superior, Colorado;

(6) Boulder County, Colorado; and

(7) Jefferson County, Colorado.

(f) REPORT.—Not later than three years after the date of the enactment of this Act, the Secretary of the Interior shall submit to Congress—

(1) the comprehensive conservation plan referred to in subsection (a); and

(2) a report that contains—

(A) an outline of the involvement of the public and local communities in the comprehensive planning process, as required by subsection (a);

(B) to the extent that any input or recommendation from the comprehensive planning process is not accepted, a clear statement of the reasons why such input or recommendation is not accepted; and

(C) a discussion of the impacts of any property rights referred to in section 3179(a) on management of the refuge, and an identification of strategies for resolving and mitigating these impacts.

**SEC. 3179. PROPERTY RIGHTS.**

(a) IN GENERAL.—Except as provided in subsections (c) and (d), nothing in this subtitle limits any valid, existing property right at Rocky Flats that is owned by any person or entity, including, but not limited to—

(1) any mineral right;

(2) any water right or related easement; and

(3) any facility or right-of-way for a utility.

(b) ACCESS.—Except as provided in subsection (c), nothing in this subtitle affects any right of an owner of a property right referred to in subsection (a) to access the owner's property.

(c) REASONABLE CONDITIONS.—

(1) IN GENERAL.—The Secretary or the Secretary of the Interior may impose such reasonable conditions on access to property rights referred to in subsection (a) as are appropriate for the cleanup and closure of Rocky Flats and for the management of the refuge.

(2) NO EFFECT ON OTHER LAW.—Nothing in this subtitle affects any Federal, State, or local law (including any regulation) relating to the use, development, and management of property rights referred to in subsection (a).

(3) NO EFFECT ON ACCESS RIGHTS.—Nothing in this subsection precludes the exercise of any access right, in existence on the date of the enactment of this Act, that is necessary to perfect or maintain a water right in existence on that date.

(d) UTILITY EXTENSION.—

(1) IN GENERAL.—The Secretary or the Secretary of the Interior may allow not more than one extension from an existing utility right-of-way on Rocky Flats, if necessary.

(2) CONDITIONS.—An extension under paragraph (1) shall be subject to the conditions specified in subsection (c).

(e) EASEMENT SURVEYS.—Subject to subsection (c), until the date that is 180 days after the date of the enactment of this Act, an entity that possesses a decreed water right or prescriptive easement relating to land at Rocky Flats may carry out such surveys at Rocky Flats as the entity determines are necessary to perfect the right or easement.

**SEC. 3180. LIABILITIES AND OTHER OBLIGATIONS.**

(a) IN GENERAL.—Nothing in this subtitle shall relieve, and no action may be taken under this subtitle to relieve, the Secretary, the Secretary of the Interior, or any other person from any liability or other obligation at Rocky Flats under CERCLA, RCRA, or any other Federal or State law.

(b) COST RECOVERY, CONTRIBUTION, AND OTHER ACTION.—Nothing in this subtitle is intended to prevent the United States from bringing a cost recovery, contribution, or other action that would otherwise be available under Federal or State law.

**SEC. 3181. ROCKY FLATS MUSEUM.**

(a) MUSEUM.—To commemorate the contribution that Rocky Flats and its worker force provided to winning the Cold War and

the impact that such contribution has had on the nearby communities and the State of Colorado, the Secretary may establish a Rocky Flats Museum.

(b) LOCATION.—The Rocky Flats Museum shall be located in the city of Arvada, Colorado, unless, after consultation under subsection (c), the Secretary determines otherwise.

(c) CONSULTATION.—The Secretary shall consult with the city of Arvada, other local communities, and the Colorado State Historical Society on—

(1) the development of the museum;

(2) the siting of the museum; and

(3) any other issues relating to the development and construction of the museum.

(d) REPORT.—Not later than three years after the date of the enactment of this Act, the Secretary, in coordination with the city of Arvada, shall submit to Congress a report on the costs associated with the construction of the museum and any other issues relating to the development and construction of the museum.

**SEC. 3182. ANNUAL REPORT ON FUNDING.**

For each of fiscal years 2003 through 2007, at the time of submission of the budget of the President under section 1105(a) of title 31, United States Code, for such fiscal year, the Secretary and the Secretary of the Interior shall jointly submit to Congress a report on the costs of implementation of this subtitle. The report shall include—

(1) the costs incurred by each Secretary in implementing this subtitle during the preceding fiscal year; and

(2) the funds required by each Secretary to implement this subtitle during the current and subsequent fiscal years.

# TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

**SEC. 3201. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 2002, $18,500,000 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. Definitions.
Sec. 3302. Authorized uses of stockpile funds.
Sec. 3303. Authority to dispose of certain materials in National Defense Stockpile.
Sec. 3304. Revision of limitations on required disposals of certain materials in National Defense Stockpile.
Sec. 3305. Acceleration of required disposal of cobalt in National Defense Stockpile.
Sec. 3306. Restriction on disposal of manganese ferro.

**SEC. 3301. DEFINITIONS.**

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

(3) The term "Market Impact Committee" means the Market Impact Committee appointed under section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(c)).

**SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.**

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2002, the National Defense Stockpile Manager may obligate up to $65,200,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), 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.

**SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.**

(a) DISPOSAL AUTHORIZED.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials contained in the National Defense Stockpile. The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

**Authorized Stockpile Disposals**

| Material for disposal | Quantity |
|---|---|
| Bauxite | 40,000 short tons |
| Chromium Metal | 3,512 short tons |
| Iridium | 25,140 troy ounces |
| Jewel Bearings | 30,273,221 pieces |
| Manganese Ferro HC | 209,074 short tons |
| Palladium | 11 troy ounces |
| Quartz Crystal | 216,648 pounds |
| Tantalum Metal Ingot | 120,228 pounds contained |
| Tantalum Metal Powder | 36,020 pounds contained |
| Thorium Nitrate | 600,000 pounds. |

(b) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(c) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

**SEC. 3304. REVISION OF LIMITATIONS ON REQUIRED DISPOSALS OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.**

(a) PUBLIC LAW 105–261.—Section 3303 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note) is amended—

(1) in subsection (a)—

(A) by striking "the amount of—" and inserting "total amounts not less than—";

(B) by striking "and" at the end of paragraph (3); and

(C) by striking paragraph (4) and inserting the following new paragraphs:

"(4) $760,000,000 by the end of fiscal year 2005; and

"(5) $770,000,000 by the end of fiscal year 2011."; and

(2) in subsection (b)(2), by striking "receipts in the amounts specified in subsection (a)" and inserting "receipts in the total amount specified in subsection (a)(5)".

(b) PUBLIC LAW 105–85.—Section 3305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 98d note) is amended—

(1) in subsection (a), by striking "amounts equal to—" and inserting "total amounts not less than—"; and

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

"(2) The President may not dispose of cobalt under this section in fiscal year 2006 in excess of the disposals necessary to result in receipts during that fiscal year in the total amount specified in subsection (a)(5).".

(c) PUBLIC LAW 104–201.—Section 3303 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 98d note) is amended—

(1) in subsection (a), by striking "amounts equal to—" and inserting "total amounts not less than—"; and

(2) in subsection (b), by striking paragraph (2) and inserting the following new paragraph:

"(2) The President may not dispose of materials under this section during the 10-fiscal year period referred to in subsection (a)(2) in excess of the disposals necessary to result in receipts during that period in the total amount specified in such subsection.".

**SEC. 3305. ACCELERATION OF REQUIRED DISPOSAL OF COBALT IN NATIONAL DEFENSE STOCKPILE.**

Section 3305(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 98d note), as amended by section 3304(b) of this Act, is amended—

(1) in paragraph (1), by striking "2003" and inserting "2002";

(2) in paragraph (2), by striking "2004" and inserting "2003";

(3) in paragraph (3), by striking "2005" and inserting "2004";

(4) in paragraph (4), by striking "2006" and inserting "2005"; and

(5) in paragraph (5), by striking "2007" and inserting "2006".

**SEC. 3306. RESTRICTION ON DISPOSAL OF MANGANESE FERRO.**

(a) TEMPORARY QUANTITY RESTRICTIONS.—During fiscal years 2002 through 2005, the disposal of manganese ferro in the National Defense Stockpile may not exceed the following quantities:

(1) During fiscal year 2002, 25,000 short tons of all grades of manganese ferro.

(2) During fiscal year 2003, 25,000 short tons of high carbon manganese ferro of the highest grade.

(3) During each of the fiscal years 2004 and 2005, 50,000 short tons of high carbon manganese ferro of the highest grade.

(b) CONFORMING AMENDMENT.—Section 3304 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 629) is repealed.

# TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

**SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $17,371,000 for fiscal year 2002 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 2002.
Sec. 3502. Define "war risks" to vessels to include confiscation, expropriation, nationalization, and deprivation of the vessels.
Sec. 3503. Holding obligor's cash as collateral under title XI of Merchant Marine Act, 1936.

**SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002.**

Funds are hereby authorized to be appropriated for fiscal year 2002, 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, $89,054,000.

(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.), $103,978,000, of which—

(A) $100,000,000 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) $3,978,000 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, $10,000,000.

**SEC. 3502. DEFINE "WAR RISKS" TO VESSELS TO INCLUDE CONFISCATION, EXPROPRIATION, NATIONALIZATION, AND DEPRIVATION OF THE VESSELS.**

Section 1201(c) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1281(c)) is amended to read as follows:

"(c) The term 'war risks' includes to such extent as the Secretary may determine—

"(1) all or any part of any loss that is excluded from marine insurance coverage under a 'free of capture or seizure' clause, or under analogous clauses; and

"(2) other losses from hostile acts, including confiscation, expropriation, nationalization, or deprivation.".

**SEC. 3503. HOLDING OBLIGOR'S CASH AS COLLATERAL UNDER TITLE XI OF MERCHANT MARINE ACT, 1936.**

Title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) is amended by inserting after section 1108 the following:

**"SEC. 1109. DEPOSIT FUND.**

"(a) ESTABLISHMENT OF DEPOSIT FUND.—There is established in the Treasury a deposit fund for purposes of this section. The Secretary may, in accordance with an agreement under subsection (b), deposit into and hold in the deposit fund cash belonging to an obligor to serve as collateral for a guarantee under this title made with respect to the obligor.

"(b) AGREEMENT.—

"(1) IN GENERAL.—The Secretary and an obligor shall enter into a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the deposit fund established by subsection (a).

"(2) TERMS.—The agreement shall contain such terms and conditions as are required under this section and such additional terms as are considered by the Secretary to be necessary to protect fully the interests of the United States.

"(3) SECURITY INTEREST OF UNITED STATES.—The agreement shall include terms that grant to the United States a security interest in all amounts deposited into the deposit fund.

"(c) INVESTMENT.—The Secretary may invest and reinvest any part of the amounts in the deposit fund established by subsection (a) in obligations of the United States with such maturities as ensure that amounts in the deposit fund will be available as required for purposes of agreements under subsection (b). Cash balances of the deposit fund in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

"(d) WITHDRAWALS.—

"(1) IN GENERAL.—The cash deposited into the deposit fund established by subsection (a) may not be withdrawn without the consent of the Secretary.

"(2) USE OF INCOME.—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the deposit fund in accordance with the terms of the agreement with the obligor under subsection (b).

"(3) RETENTION AGAINST DEFAULT.—The Secretary may retain and offset any or all of the cash of an obligor in the deposit fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation.".

*Speaker of the House of Representatives.*

*Vice President of the United States and President of the Senate.*